"A" Collection

App. F. IX-4

1938.
(Legis)

File No. 5 of 38

Previous References
RA. 89-38.

Serial Nos. 1

Letter References

72

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. one only.

Part ~~F~~ I for July / 1938.

SUBJECT.

Promulgation into law of the Hindu Widows Remarriage Bill

8(1) To The Comptroller, Jaipur.
No. J. 286 S. 14.7.38
Orders that the Act to remove all legal obstacles to the marriage of Hindu Widows be published as Act No. XII of 1938 in the Jaipur Gazette

WD 0295—GPB—22,500—13-8-37

Jaipur Nagar Sheth
20/3/39.

General & Revenue Secretariat.

File No. The marriage of Hindu Widows. of 193 [App. F. III–2

Serial No.

D 1767.

Letter Dated 21st May 1937 from Mr. T. Ramachandra, Bangalore.

states that the general principles of the Bill of which himself and Mr. K. T. Bhashyam Aiyar were the joint proposers were placed before the R. A June 1936 and that they were passed by the Assembly and requests under Rule 6(a) for permission to introduced it at the next session of the L. C.

The general principles of the Bill were placed before the R. A. at its Budget Session, 193 and after discussion put to vote and passed. The views of the Assembly were communicated to the proposers in this office Communicating No. 5712/R. A dated 18th June 1936.

W

P. U. D.

Mr. T. Ramachandra, Co-author of this private measure, gives notice of his intention at its next meeting, to move for the leave of the Council to introduce the Bill under Rule 6(d) of the L. C. Rules of Business. There are three conditions to be satisfied under the above rule and they are the following:—

(1) Giving 15 days previous notice of the title & subject of the Bill

(2) Forwarding a copy of the Bill

(3) Asking for leave within one year from the date of the communication of the views of the Assembly.

All the above three conditions have been satisfied by Mr. T. Ramachandra and the leave asked for may be granted.

NOTE—Contn. Sheet.

Serial No.

4 It now remains for the office to get the Bill printed and circulated amongst the members along with the agenda and include the motion for "leave to introduce the Bill" ~~and be included~~ in the agenda as contemplated in Rule 6(d).

Submitted. This will be done, if approved.

5 Leave asked for may be granted under Rule 6 of Rules of Business

Dewan

6

2-5-37

7

29/5

on the 5th inst.

Leave was granted to Mr. T. Ramachandra to introduce this Bill on the

8 Further stages of this Bill will have to be dealt with by the Prot. Br. after intimation is received from Mr. T. Ramachandra under 7 of the R.B. rules. If agreed, this will be passed on to that Branch.

Submitted. 10 Intimation from Mr Ramachandra under Rule 7 of the L.C. Rules of Business may be awaited.

10.7.37

10.7

DEPARTMENT OF LEGISLATION 5306

Serial No.

D 897.

Letter Dated 9th Novr. 1937 from Mr. T. Ramachandra to the R.L. Bangalore.

States that he desires to submit at the forthcoming meeting of the L.C, the Hindu Widow Remarriage Bill and requests to be informed of the procedure to be adopted by him in the matter.

At the last Session of the L.C. leave was granted to Mr. T. Ramachandra to introduce the Bill. Under Rule 7, the mover should send the Bill together with a full statement of objects and reasons and connected papers to the Secy for being printed and circulated amongst the members and the same (except connected papers) being published in the Official Gazette in English and Kannada

The Bill with the statement of objects and reasons as printed and circulated amongst the members prior to the being granted. Copy is put up.

Mr. Ramchandra will be asked if the Bill and the statement of objects and reasons already in the possession of the office may be treated as copies meant for action under Rule 7.

Further action under the above rule will be taken on receipt of a reply from Mr. Ramchandra.

Draft put up

13/11/37

13.11

No. 2771/L.C. Dated 13th Novr. 1937 to Mr. T. Ramachandra

States that under Rule 7 of the rules of business a copy of the Bill has to be sent by the mover and enquires if the Bill etc already sent may be treated as the same sent

NOTE—Contn. Sheet.

Hindu Widow Remarriage Bill

File No. of 193 .

General and Rev Secretariat

Serial No.

for this purpose and necessary action taken & also informs him that the motion in this connection will be included in the agenda of the next Session.

Reply awaited.

15/11/37

Letter Dated 16th Nov. 1937 from Mr. T. Ramachandra, Mr. L.C. Bangalore. D 91

States that the statement of objects and reasons already printed and circulated amongst the members may be used for necessary action under Rule 7 of the L.C. Rules of Business. and requests that this item may be included in the agenda of the next Session.

The Bill has now to be published under Rule 7 of the L.C. Rules of Business. Notification for publishing it in the Gazette has been prepared and put up.

After the Bill has been scrutinised by the Prot. Branch, the notification will be sent to the Compiler. 18 Yes 19/11

Sd/- Prot. Gr

18/11/37 D 19 18/11

This is a private Bill and it has been sent by the mover for publication. The form of the Bill seems alright. The several clauses will be examined by the Select

D91

Serial No.

Committee to which the Bill may be referred.

The Bill may perhaps be published now as it is

Sec 22/11 (L.C Office) — kg 22.11

Sec 22/11 nor

If appd, the Bill will be sent for publication to the Compiler, Improv Gazette. Yes kg 23.11

23/11/37 kg 23.11. Notn no 2784/Ld. dt 23.11.37

The Bill which is a private measure has been published in the Gazette under Rule 7. Further action has to be taken by the Prot. Br. If appd, the file will be passed on to the Prot. Br.

Subd kg 15.12

15.12.37 kg 15.12 Prot. Gr

15.12

Letter dt 10/12/37 from Sri Varasimhaviyapa Advocate Malavapraiger Panaji copy of the resolutions passed at a meeting of the residents of the place stating that it is not desirable to

NOTE—Contn. Sheet.

WD 0284—GPB—30,000—13-8-37

Hindu Widow marriages Bill.

File No. 2912 of 193 .

General and Revenue Secretariat

Widow marriage Act in Jaffna as it is opposed to Hindu Religious.

S.C. Secretary. for perusal

SG 2/12/37

by 2/12

The Bill has been published. Mr. T. Ramachandra has already in pursuance of his notice to introduce the Bill at the ensuing meeting of the Council.

Motions for withdrawing the Bill and referring it to a Select committee may be included in the agenda for the L.C. meeting of 9th Jan.

S.C.C. for orders.

SG 28/11/37. (Secretary)

by 8/1

SG 8/1

by 10.1

may be sent to L.C. office for kind by noting the names of members of S.C. to which the Bill was referred at the last meeting.

SG 2/3/38

L.C. file

OFFICE OF THE FIRST MEMBER OF COUNCIL
JAN 8 1938
No 4298

OFFICE OF THE SECRETARY

Hindu Widow Marriage Bill.

General and Revenue Secretariat | File No. | of 193 . | [App. F. III—2

Serial No.

The names are noted below:—

1. The First Member of Council (Rajamantri pravina S P. Rajagopalachari),
2. Mr S. D. Kesavaiengar,
3. " A-V. Ramanathan,
4. " Mirle N-Lakshminarayanappa,
5. " Belur Srinivasiengar,
6. " K-R- Subbannachar,
7. " M-S. Dyavegowda. ✓
8. The mover (Mr D. Ramakrandra).

fsn 2-3-38. Prof. by

3/3

The S. C. meeting has been fixed for 3 P.m on 12/4/38.

Send. with a diary note of the meeting.

Sec 4/4/38.

Issued by 4-4 Govt. No. P 5544-S 00/54

Issued no P 5657-S > 9/4.

Send. with a diary of the S. C report

Sec 18/4.

Please put up typed draft in necessary

by 18-4

Send. with a typed draft

Sec 19/4.

TYPING SECTION L-I 4 APR 1938

NOTE—Contn. Sheet.

WD 0284—GPB—30,000—13-9-37

File No. of 193

General and Revenue Secretariat

draft-report for approval
(18th December)

OFFICE OF THE FIRST MEMBER OF COUNCIL
21 1938
No 7535

Subm. with a draft forwarding the report to the members of the committee for approval

issued
4/5/38.

35 issued

Issued No P 6217-2196/5

36/Reports have been received back with approval from all except Mr B. T. Kesavamenon.

In approving of the report Mr Menon has made some suggestions.

(1) The change from six months to one month in Clause 1 (3) had been left out in the draft

Serial No.

included if approved

(2) The S.C. suggests the omission of the words "other than his near relatives upto mile" so that his term "Interpreter" not expected to" in para 3 of the report which may further be adopted.

(3) "(f)" in line 1 of para 3 is an error for "(e)" which will be rectified.

The other suggestions made in paras (4), (5) & (6) relate to the clauses as amended & the changes proposed can perhaps be made only by scanning amended rules in the L.C. as they were not considered by the S.C.

37) Submd. for orders.

5C 12/5 The suggestions will be incorporated in the S.C Report

NOTE—Contn. Sheet.

WD 0284—GPB—30,000—13-8-37

D 248/RL

File No. of 193

General and Revenue Secretariat

The other suggestions were not considered in the S.C. but suggestion no 2 may perhaps be adopted in the Note suggested by the other change is called for (Chn. 1st Meeting)

Lg 16.5

OFFICE OF THE FIRST MEMBER OF COUNCIL
MAY 16 1938
No.....

387 SPR 17/5

17/5

39 The select committee is accordingly sending a copy of the bill as amended is put up. If approved copies of them will be sent to the Press for publication

Lg 18/5

Lg 18.5

Lg 18/5 to come. To appear in Jamaica Gazette if possible

To D.C. office with 3 typed copies of the report & 3 copies of the Bill as amended for publication.

Rec'd 12.30 pm 19/5/38

19/5 41 6 copies of the Report with the amended

OFFICE OF THE SECRETARY
19 MAY 1938
REPRESENTATIVE ASSEMBLY AND LEGISLATIVE COUNCILS

Hindu Widow's marriage Bill

Serial No.

Bills have been received just now. In the normal course, these can appear in the next week's Gazette only. If agreed, the report and the bill will be sent to the Compiler today.

42) Please speak to me
19/5/38 19.5 19.5

43) Obtained instructions & publish this and the Insurance Bill together in Gazette Extraordinary on Thursday or Friday next.
9 Copies of the Report taken and the file sent to the Prot. Br.)

Leave.

19.5.38

44) The S. C. report has been published.

45) The Govt. Advocate has suggested the following amendments to the Bill as amended by the Committee :-

1) Omit in the first paragraph of clause 4 for the words "or forfeiting absolutely" the following words be substituted, namely, "or if she has no more than one other

NOTE—Contn. Sheet.

brothers, of one of them are pairing
a bo such as brothers";

(2) That in the last paragraph of the same clause the word "consent" where it occurs a second time be omitted; and

3) That in clause 7 for the words "the highest court having original jurisdiction" the words "the court having jurisdiction" be substituted.

The report of the S.C. will have to be presented at the ensuing meeting of the S.C. & the Bill considered and passed. The following motions may, if approved, be included in the agenda

(a) Motion that the report of the S.C. & the bill as amended be taken into consideration

(b) Motion that the Bill as amended be passed.

Serial No.

It is also for orders if the amendments suggested by the G. A. wish have to be included in the Standing as amendments to be moved on behalf of Govt.

3. Submd. for orders.

See 6/6. 2/6 The amendment suggested by the G. A do not appear necessary.

This clause follows the British Indian Act & may stand as it is. The word brothers used herein cannot only refer to the elder brothers referred to in the clause above.

The words elder brothers used cannot mean all the 'elder brothers' whose consent is needed.

4/7 The word consent in the last paragraph needs a second line also seems necessary to give a clearer meaning.

This clause is dealing with Marriage with consent & Consent and the Consent of the widow hereof is one such Consent & may be retained

5/8 The 2 motions A & B may be adopted

OFFICE OF THE FIRST MEMBER OF COUNCIL
JUN 9 1938
9253

NOTE—Contn. Sheet.

WD/0284—GPB—30,000—13-8-37

1st Member 4/9 8/6

Widows marriage - Bills

File No. of 193 . General and Revenue Secretariat

53 Amendments have been proposed to the Bills by Hon Chandrasekharaiya

Amendment (a) is unnecessary since the Bill seeks to remove legal obstacles to the marriage of Hindu widows. Though it is the remarriage of the woman it is her first marriage as a widow. But the word remarriage has been used in clauses 3 & 5

(b) Amendment to Clause (2) seems also unnecessary as it has been provided in clause 3 that the words and ceremonials used for first marriage shall have the same effect in respect of the marriage of a widow. No declaration in addition seems necessary. There is no civil marriage Act in Mysore providing for registration of marriages.

Hindu Minorities Bill.

Serial No.

(c) Amendment to clause 4.:— There may be cases where the adoption is a mere formality the consent of such another body has to be sufficient.

But the word "adult" proposed to be added is not defined.

57 It is a point for consideration if an explanation may not be added to para 1 of the clause that for an adoption to be valid the adoptive parent must not be below eighteen years of age.

(d) Whether it is necessary to fix the limit of time is for orders.

Sent for orders.

See 1-7/6 52 Regarding the amendments a & b

the office note explaining the position

Regarding (c) the word adult does not explain the meaning as it is not defined any where The word Consent seems to imply the Consent of a major with in the meaning of the Contract Act Secs 10. 11 & 13.

Under Sec 11 of the Said Act a person who has completed his/her years attained the age of majority and who is of sound mind is competent to Contract with another. A Contract embodies an agreement between 2 persons competent to Contract whereby 2 persons agree they are to said Consent (Sec 13). So 'consent' implies Capacity to Contract, i.e by a major. no amendment seems necessary.

If at any amendment is considered to necessary we may add the following

"who ~~is~~ has attained the age of majority according to the law in force in Myanmar and who is of sound mind" after the words above mentioned.

The amendment (d) is unnecessary as the fine inflicted will always be reasonable & there is no need to fix the limit of fine. The proposed amendments

Serial No.

GENERAL SECRETARY.
12 JUNE 1938
7439

will however be included in the regard

Gen Secy
18-9-

12.6.

57

(a) The proper nomenclature for the Act would be "the Mysore Hindu Widow Remarriage Act, 1938".

The term "remarriage" occurs in clauses 4 to 7.

57 The above is the name of the Act in British India. The amendment proposed may be accepted.

(b) cl (3) of the Bill prescribes the same ceremonies for a widow remarriage as for an ordinary marriage. The system of registration or declaration before a Magistrate is not in consonance with Hindu law or custom. There is no civil marriage law in Mysore. The amendment proposed may be opposed

(C) The wording in the Bill is as in British India. The word "adult" is not necessary Consent of the elder brother or failing him the next male relative is necessary. This is the rule in the Hindu Law also which does not require that the brother who can give in marriage should be a major i.e over 18 years according to the present

NOTE—Contn. Sheet.

(d) The clause may stand as it is.
But if a limit of Rs500 for fine has a large
Concession of opinion in the L.C. it may
be agreed to.

1st Member)

14/6

14/6

OFFICE OF THE
FIRST MEMBER OF COUNCIL
JUN 14 1938
No. 9385

59) Of the amendments
proposed, amendments
(a) & (d) were accepted
and (b) & (c) with dissent.
and the bill so amended
was passed by the L.C.
A copy of the bill as finally
passed is placed in the
file.

60) Send with a D.F. for
formally asking the
bill into Council.

5/6/38. 59) Typed copy as revised
28.6

60) Typed & sent.

29/6 (1st Member)

1/7

1/7/38.

TYPING SECTION
GEN. & REV. SECTT.

Serial No.

52)

D. S. M. Sahib.

DEWAN'S OFFICE
6 JULY 1938
No. 70

5/7

5/7

Final Note by the First Member of Council.

Subject:—

Promulgation into law of the Hindu Widow remarriage Bill.

63 On the 20th December 1935 His Highness was graciously pleased to accord sanction to permit the Hindu Widow Remarriage Bill being introduced as a private Bill. The general principle of the Bill were placed before the Representative Assembly at its Session of June 1936 and approved by it. The Bill was thereafter introduced in the Legislative Council at its Session in January 1938 and referred to Select Committee. The Select Committee revised the Bill in certain particulars and the Bill as amended by it has been passed by the Legislative Council at its recent Session. A copy of the Bill as finally passed is placed in the file.

64 I solicit the gracious sanction of His Highness for promulgating the Bill into law.

MEMBER OF COUNCIL.

Bangalore,
2nd July 1938.

Submitted to His Highness.

I submit herewith a Final Note by the FIRST *Member of Council on the subject of* Promulgation into law of the Hindu Widow Remarriage Bill, *for His Highness' gracious approval.*

Mirza M. Ismail

Dewan.

Bangalore,

6th July 1938.

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Promulgation into law of the Hindu Widow Remarriage Bill.

9

Order.

~~KRW~~

7/7/38

General and Revenue
Secretariat.

H. H-9.

SUBJECT:—

Promulgation into Law of the Hindu Widow Remarriage Bill

(*)

31. All urgent or confidential files returned with His Highness' orders may in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Headquarters and then sent to the Secretariat concerned for the issue of orders.

67)

Circulated to Members of Council for perusal of His Highness' orders before / after issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

Chief Secretary to Government.

Through the Secretary to Government,

.....Department.

68)

FIRST MEMBER OF COUNCIL.

8/7

69)

SECOND MEMBER OF COUNCIL.

11/7/38

3
11/7

12/7

12/7

NOTE.—Contn. sheet.

WD 1467—GPB—500—23-2-38

P.S.no. 7938-34.

Kindly hasten remarks not

App. F III—2]

General and Revenue Secretariat

Leg. File No. of 1938

Serial No.	
70	Bills and a Gazette S.O. showing date of publication of the Act as No. XII of 1938. 5a 18/7/38. 71 issued 18/7/38
1	P.S.O. No. 2886 of 14/7 showing the publication of Act XII of 1938

Please see proposed copies need

Proposed copies 5a/ A.

NOTIFICATION.

No. 2784—L. C., Bangalore, dated 23rd November 1937.

Under Rule 7 of the Rules for the conduct of business of the Mysore Legislative Council, the accompanying private Bill to remove all Legal Obstacles to the Marriage of Hindu Widows in the Mysore State is published for general information with the statement of objects and reasons.

By Order,
A. SUNDARARAJA RAO,
Secretary,
Mysore Legislative Council.

Bill to Remove all Legal Obstacles to the Marriage of Hindu Widows in the Mysore State.

Whereas the removal of all legal obstacles to the marriage of Hindu Widows in the State will tend to the promotion of good morals and to the public welfare and whereas it is just to hold offsprings of such marriages as legitimate, it is hereby enacted as follows:—

Short title, extent and commencement.

1. *(i)* The Regulation may be called "The Mysore Hindu Widows Marriage Regulation, 193 ."

(ii) It shall extend to the whole of the territories of Mysore.

(iii) It shall come into operation at the expiration of ~~six~~ one months from the date of its publication in the Official Gazette.

Marriage of Hindu Widows Legalised

2. Notwithstanding any custom and any interpretation of Hindu Law to the contrary, no marriage contracted between Hindus shall be invalid, and no issue of such marriage shall be illegitimate, by reason of the woman having been previously married or betrothed to another person who was dead at the time of such marriage, provided that the parties must not be related to each other

in any degree of consanguinity or affinity which would under Hindu Law render a marriage illegal.

Ceremonies constituting valid marriage to have effect on Widows Re-marriage.

3. Whatever words spoken, ceremonies performed or engagements made on the marriage of a Hindu female who has not been previously married, are sufficient to constitute a valid marriage, shall have the same effect if spoken, performed or made on the marriage of a Hindu Widow; and no marriage shall be declared invalid on the ground that such words, ceremonies or engagements are inapplicable to the case of a widow.

Consent to the re-marriage of a Widow.

4. A widow who has not completed her sixteenth year and whose previous marriage has not been consummated, shall not re-marry without the consent of her guardian in marriage in the order mentioned, *viz.*, her father, her mother or her next male relatives.

The consent of the guardian shall be presumed until the contrary is proved.

No such marriage shall be declared void after it has been consummated in the case of a widow who has completed her sixteenth year, or whose previous marriage has been consummated. Her own consent shall be sufficient consent to constitute her re-marriage lawful and valid.

Saving of rights of widow marrying.

5. Except as hereinafter provided, a widow shall not, by reason of her re-marriage forfeit any property or any right to which she would otherwise be entitled; and every widow who has re-married shall have the same rights of inheritance as she would have had, had such marriage been such marriage.

Rights of widow on her marriage.

6. All rights and interests which any widow may have inherited from her deceased husband shall upon her re-marriage cease and determine as if she had then died, and the next heirs of her deceased husband, or other persons entitled to the property on her death shall thereupon succeed to the same.

Exception I.—In the absence of such a next heir or person entitled to the property at the time of her re-marriage, the property inherited from her husband shall be deemed to be her absolute property.

Exception II.—Rights and interests in any property by virtue of any gift or testamentory disposition upon her only a limited estate with no power of alienating the same shall be deemed to confer upon her an absolute estate; *i.e.*, one with power of alienating the same unless there is an express prohibition to re-marry in the terms evidencing the gift or testamentory disposition.

Guardianship of children of deceased husband on the re-marriage of his widow.

7. On the re-marriage of a Hindu widow, if neither the widow nor any other person has been expressly constituted by the will or testamentory disposition of the deceased husband the guardian of the children, she shall be entitled during their minority to have the care and custody of her children or any of them by her deceased husband until a competent Court having original Jurisdiction in civil cases in the place where the deceased was domiciled at the time of his death shall appoint some proper person other than the mother to be guardian on a petition by the father or the paternal grandfather or the mother or the grandmother or any male relative of the deceased husband, and in making such appointment, the said court shall be guided, so far as may be, by the laws and rules in force touching the guardianship of children who have neither father nor mother:

Provided that, when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointments shall be made otherwise than with the consent of the mother unless the proposed guardian shall have given security for the support and proper education of the children during their minority:

Provided also that when the widow has been expressly constituted guardian by the will or testamentory disposition of the deceased husband no such appointment shall be made.

Statement of Objects and Reasons.

Mysore has not as yet a regulation corresponding to Act XV of 1856 which legalises the re-marriage of Hindu widows and we are therefore certainly behind British India in this respect. The British Act of 1856 was the outcome of the efforts of the late Pandit Iswar Chandar Vidyasagar making it applicable to all Hindu widows who may be so minded as to re-marry in spite of the traditional

interpretation of the Hindu Law or custom to the contrary.

The Bill is purely a permissive measure and aims at removing legal obstacles to the re-marriages of such Hindu widows as wish to re-marry and at legitimising the children born of such wedlock. It endeavours to meet the growing consciousness of the educated Hindus who believe that the re-marriage of Hindu widows is not opposed to the true interpretation of the precepts of Hindu religion but is also in consonance with the principles of Justice and Equity. It does not affect the right of a Hindu widow who is allowed to re-marry by the custom of her community.

The rules of Consanguinity and Affinity under the Hindu Law are made applicable to the case of re-marriage and the widows gothram is fixed as that of her father for purposes of her re-marriage. The customary marriage ceremonies generally observed in the case of the first marriage are made applicable to the re-marriages. In the case of a minor widow, the consent of her guardian in marriage is made obligatory except where her first marriage had been consummated.

The right of a widow in the estate of her deceased husband ceases on her marriage and she is divested of all rights inherited from him which then pass on to the next heir of her deceased husband. In the absence of such heir, the re-married widow continues to enjoy them as her absolute estate. The rights acquired by her under gift deed or will from her deceased husband are deemed as her absolute estate unless there is a prohibition to re-marry in the deed of the gift or the will.

A re-married widow continues to be the guardian of her children by the first husband until a civil court appoints another person in her place as guardian at the instance of some interested person.

Printed by the Superintendent at the Government Press, Bangalore.

NOTIFICATION.

No. 2784—*L. C., Bangalore, dated* 23*rd November* 1937.

Under Rule 7 of the rules for the conduct of business of the Mysore Legislative Council, the accompanying private Bill to remove all Legal Obstacles to the Marriage of Hindu Widows in the Mysore State is published for general information with the statement of objects and reasons.

By Order,
A. SUNDARARAJA RAO,
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Bill to Remove all Legal Obstacles to the Marriage of Hindu Widows in the Mysore State.

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Short title, extent and commencement.

1. (*i*) The Regulation may be called "The Mysore Hindu Widows Marriage Regulation, 193[8]."

(*ii*) It shall extend to the whole of the territories of Mysore.

(*iii*) It shall come into operation at the expiration of [six] months from the date of its publication in the Official Gazette.

Marriage of Hindu Widows Legalised.

2. Notwithstanding any custom and any interpretation of Hindu Law to the contrary, no marriage contracted between Hindus shall be invalid, and no issue of such marriage shall be illegitimate, by reason of the woman having been previously married or betrothed to another person who was dead at the time of such marriage, provided that the parties must not be related to each other

in any degree of consanguinity or affinity which would under Hindu Law render a marriage illegal.

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The consent of the guardian shall be presumed until the contrary is proved.

No such marriage shall be declared void after it has been consummated in the case of a widow who has completed her sixteenth year, or whose previous marriage has been consummated. Her own consent shall be sufficient consent to constitute her re-marriage lawful and valid.

Saving of rights of widow marrying.

5. Except as hereinafter provided, a widow shall not, by reason of her re-marriage forfeit any property or any right to which she would otherwise be entitled; and every widow who has re-married shall have the same rights of inheritance as she would have had, had such marriage been such marriage.

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Exception II.—Rights and interests in any property by virtue of any gift or testamentory disposition upon her only a limited estate with no power of alienating the same shall be deemed to confer upon her an absolute estate; *i.e.*, one with power of alienating the same, unless there is an express prohibition to re-marry in the terms evidencing the gift or testamentory disposition.

Guardianship of children of deceased husband on the re-marriage of his widow.

7. On the re-marriage of a Hindu widow, if neither the widow nor any other person has been expressly constituted by the will or testamentory disposition of the deceased husband the guardian of the children, she shall be entitled during their minority to have the care and custody of her children or any of them by her deceased husband until a competent Court having original Jurisdiction in civil cases in the place where the deceased was domiciled at the time of his death shall appoint some proper person other than the mother to be guardian on a petition by the father or the paternal grandfather or the mother or the grandmother or any male relative of the deceased husband, and in making such appointment, the said court shall be guided, so far as may be, by the laws and rules in force touching the guardianship of children who have neither father nor mother:

Provided that, when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointments shall be made otherwise than with the consent of the mother unless the proposed guardian shall have given security for the support and proper education of the children during their minority:

Provided also that when the widow has been expressly constituted guardian by the will or testamentory disposition of the deceased husband no such appointment shall be made.

Statement of Objects and Reasons.

Mysore has not as yet a regulation corresponding to Act XV of 1856 which legalises the re-marriage of Hindu widows and we are therefore certainly behind British India in this respect. The British Act of 1856 was the outcome of the efforts of the late Pandit Iswar Chandar Vidyasagar making it applicable to all Hindu widows who may be so minded as to re-marry in spite of the traditional

interpretation of the Hindu Law or custom to the contrary.

The Bill is purely a permissive measure and aims at removing legal obstacles to the re-marriages of such Hindu widows as wish to re-marry and at legitimising the children born of such wedlock. It endeavours to meet the growing consciousness of the educated Hindus who believe that the re-marriage of Hindu widows is not opposed to the true interpretation of the precepts of Hindu religion but is also in consonance with the principles of Justice and Equity. It does not affect the right of a Hindu widow who is allowed to re-marry by the custom of her community.

The rules of Consanguinity and Affinity under the Hindu Law are made applicable to the case of re-marriage and the widows gothram is fixed as that of her father for purposes of her re-marriage. The customary marriage ceremonies generally observed in the case of the first marriage are made applicable to the re-marriages. In the case of a minor widow, the consent of her guardian in marriage is made obligatory except where her first marriage had been consummated.

The right of a widow in the estate of her deceased husband ceases on her marriage and she is divested of all rights inherited from him which then pass on to the next heir of her deceased husband. In the absence of such heir, the re-married widow continues to enjoy them as her absolute estate. The rights acquired by her under gift deed or will from her deceased husband are deemed as her absolute estate unless there is a prohibition to re-marry in the deed of the gift or the will.

A re-married widow continues to be the guardian of her children by the first husband until a civil court appoints another person in her place as guardian at the instance of some interested person.

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ಇನ್ಸ್ಟ್ರಿಹಾನರ್ಡ್ ಮೆ.

ನಂಬರು 2784—ಎಲ್. ಸಿ.,
ಬೆಂಗಳೂರು, ತಾರೀಖು 23ನೆಯ ನವೆಂಬರು 1937.

ಮೈಸೂರು ಸಂಸ್ಥಾನದಲ್ಲಿ ಹಿಂದೂ ವಿಧವೆಯರ ವಿವಾಹದ ವಿಷಯದಲ್ಲಿ ಈಗಿರತಕ್ಕ ಕಾನೂನು ಸಂಬಂಧವಾದ ಎಲ್ಲ ಪ್ರತಿಬಂಧಕಗಳನ್ನೂ ಹೋಗಲಾಡಿಸುವುದಕ್ಕಾಗಿ ಏರ್ಪಟ್ಟ ಖಾಸಗಿ ಮಸೂದಾ ಕಾನೂನನ್ನು, ಉದ್ದೇಶಗಳ ಮತ್ತು ಕಾರಣಗಳ ವಿವರಣೆಯೊಂದಿಗೆ ಮೈಸೂರು ನ್ಯಾಯವಿಧಾಯಕ ಸಭೆಯ ಕಾರ್ಯನಿರ್ವಹಣೆಗಾಗಿ ಏರ್ಪಟ್ಟಿರುವ ನಿಬಂಧನೆಗಳ ಪೈಕಿ 7ನೆಯ ನಿಬಂಧನೆಯ ಮೇರೆಗೆ ಸಮಸ್ತ ಜನರ ತಿಳಿವಳಿಕೆಗಾಗಿ ಇದರೊಡನೆ ಪ್ರಕಟಿಸಲಾಗಿದೆ.

ಹುಕುಂ ಬಮೋಜೀಬ್,
ಎ. ಸುಂದರರಾಜಾರಾವ್,
ಮೈಸೂರು ನ್ಯಾಯವಿಧಾಯಕ ಸಭೆಯ ಸೆಕ್ರೆಟರಿ.

ಮೈಸೂರು ಸಂಸ್ಥಾನದಲ್ಲಿ ಹಿಂದೂ ವಿಧವೆಯರ ವಿವಾಹದ ವಿಷಯದಲ್ಲಿ ಈಗಿರತಕ್ಕ ಕಾನೂನು ಸಂಬಂಧವಾದ ಎಲ್ಲ ಪ್ರತಿಬಂಧಕಗಳನ್ನೂ ಹೋಗಲಾಡಿಸುವುದಕ್ಕಾಗಿ ರಚಿಸಲ್ಪಟ್ಟ ಮಸೂದಾ ಕಾನೂನು.

ಸಂಸ್ಥಾನದಲ್ಲಿರುವ ಹಿಂದೂ ವಿಧವೆಯರ ವಿವಾಹದ ವಿಷಯದಲ್ಲಿ ಈಗಿರತಕ್ಕ ಕಾನೂನು ಸಂಬಂಧವಾದ ಎಲ್ಲ ಪ್ರತಿಬಂಧಕಗಳನ್ನೂ ಹೋಗಲಾಡಿಸುವುದರಿಂದ, ಜನಗಳಲ್ಲಿ ನೀತಿ ಸಮ್ಮತವಾದ ವರ್ತನೆಯನ್ನು ಹೆಚ್ಚಿಸುವುದಕ್ಕೂ ಮತ್ತು ಪ್ರಜಾಕ್ಷೇಮಕ್ಕೂ ಅವಕಾಶವುಂಟಾಗುವುದಾಗಿರುವ ಪ್ರಯುಕ್ತವೂ, ಮತ್ತು ಅಂಥಾ ವಿವಾಹದ ದೆಸೆಯಿಂದ ಜನಿಸಿದ ಮಕ್ಕಳುಗಳನ್ನು ಪ್ರಥಮ ವಿವಾಹವು ನಡೆದಿರತಕ್ಕ ಹೆಂಗಸಿನ ಹೊಟ್ಟೆಯಲ್ಲಿ ಹುಟ್ಟಿದ ಮಕ್ಕಳುಗಳನ್ನು ಹೇಗೋ ಹಾಗೆಯೇ ಭಾವಿಸುವುದು ನ್ಯಾಯವಾಗಿರುವ ಪ್ರಯುಕ್ತವೂ ಈ ಕೆಳಗೆ ನಮೂದಿಸಿರುವಂತೆ, ಈ ಮೂಲಕ ಕಾನೂನನ್ನು ವಿಧಾಯಕಮಾಡಲಾಗಿದೆ :—

ಚಿಕ್ಕ ಹೆಸರು. ವ್ಯಾಪ್ತಿ ಮತ್ತು ಪ್ರಾರಂಭ.

1. (i) ಈ ರೆಗ್ಯುಲೇಷನನ್ನು, "193 ನೆಯ ಇಸವಿಯ ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಹಿಂದೂ ವಿಧವೆಯರ ವಿವಾಹಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟ ರೆಗ್ಯುಲೇಷನು" ಎಂದು ಕರೆಯಬಹುದು.

(ii) ಅದು, ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಎಲ್ಲ ಪ್ರದೇಶಗಳಿಗೂ ಅನ್ವಯಿಸತಕ್ಕದು.

(iii) ಅದು, ಸರ್ಕಾರಿ ಗೆಜೆಟ್ಟಿನಲ್ಲಿ ಅದನ್ನು ಪ್ರಕಟಿಸಿದ ತಾರೀಖಿನಿಂದ ಆರು ತಿಂಗಳುಗಳು ಪೂರ್ತಿಸಿದ ತರುವಾಯ ಜಾರಿಗೆ ಬರತಕ್ಕದು.

ಹಿಂದೂ ವಿಧವೆಯರ ವಿವಾಹದ ವಿಷಯದಲ್ಲಿ ಕಾನೂನಿನ ಬಲೀಯ ವಿರುವಂತೆ ಏರ್ಪಾಡು ಮಾಡುವುದು.

2. ಒಬ್ಬಳು ಹಿಂದೂ ಹೆಂಗಸಿಗೆ ಮೊದಲು ಒಬ್ಬ ಹಿಂದೂ ಗಂಡಸಿನೊಡನೆ ನಿಷೇಕವಾಗಲಿ ಅಥವಾ ವಿವಾಹವು ಮಾತ್ರವೇ ಆಗಲಿ ನಡೆದಿದ್ದು ಆತನು ಮೃತಪಟ್ಟಿದ್ದ ಸಂದರ್ಭದಲ್ಲಿ ಆ ಬಳಿಕ ಅದೇ ಹೆಂಗಸಿಗೆ ಇನ್ನೊಬ್ಬ ಹಿಂದೂ ಗಂಡಸಿನೊಡನೆ ಪುನಃ ವಿವಾಹವು ನಡೆದರೆ, ಯಾವುದಾದರೂ ಸಂಪ್ರದಾಯದಲ್ಲಾಗಲಿ ಅಥವಾ ಹಿಂದೂ ಧರ್ಮಶಾಸ್ತ್ರದ ಯಾವ ಅರ್ಥನಿರ್ಣಯದಲ್ಲಾಗಲಿ, ಇದಕ್ಕೆ ವಿರುದ್ಧವಾಗಿ, ಏನೇ ಅಡಕವಾಗಿದ್ದಾಗ್ಯೂ, ಆಕೆಗೆ ಆ ಮೊದಲೇ ವಿವಾಹವಾಗಿದ್ದಿತೆಂಬ ಕಾರಣದಮೇಲೆ ಅಂಥ ಯಾವ ವಿವಾಹವೂ ನ್ಯಾಯನಿಷಿದ್ಧವೆನಿಸಿ ಅಸಿದ್ಧವಾಗತಕ್ಕದಲ್ಲ ; ಮತ್ತು ಅಂಥಾ ವಿವಾಹದ ದೆಸೆಯಿಂದ ಜನಿಸಿದ ಯಾವ ಮಕ್ಕಳನ್ನೂ, ನ್ಯಾಯವಾದ ದಂಪತಿಗಳಲ್ಲದವರಿಗೆ ಜನಿಸಿದ ಮಕ್ಕಳೆಂದು ಭಾವಿಸತಕ್ಕದಲ್ಲ. ಪರಂತು, ಹಿಂದೂ ಧರ್ಮಶಾಸ್ತ್ರದ ಮೇರೆಗೆ ವಿವಾಹವು ನ್ಯಾಯವಿರುದ್ಧವಾದುದೆಂದೆನಿಸುವ ಯಾವ ರೀತಿಯಲ್ಲಿಯೂ, ಗಂಡಿನವರೂ ಮತ್ತು ಹೆಣ್ಣಿನವರೂ ಒಂದೇ ಗೋತ್ರದವರಾಗಿರಕೂಡದು ಅಥವಾ ವಿವಾಹವು ನಿಷಿದ್ಧವೆನಿಸುವ ಪರಸ್ಪರ ಬಾಂಧವ್ಯವೂ ಅವರಿಗಿರಕೂಡದು.

ಶಾಸ್ತ್ರೋಕ್ತವಾದ ವಿವಾಹದ ಸಂಬಂಧದಲ್ಲಿ ನಡೆಯಿಸತಕ್ಕ ಕರ್ಮಾದಿಗಳು ವಿಧವೆಯರ ಪುನರ್ವಿವಾಹದ ಸಂಬಂಧದಲ್ಲೂ ವಿಧಿವಿಹಿತವಾಗತಕ್ಕುದು.

3. ಮೊದಲೇ ವಿವಾಹವಾಗಿಲ್ಲದ ಹಿಂದೂ ಹೆಂಗಸಿನ ಮದುವೆಯ ಸಂಬಂಧದಲ್ಲಿ ಯಾವ ಯಾವ ಮಂತ್ರಾದಿಗಳ ಉಚ್ಚಾರಣೆಗಳೂ ಕರ್ಮಾದಿಗಳೂ ಅಥವಾ ಏರ್ಪಾಡುಗಳೂ ನಡೆದಲ್ಲಿ ವಿವಾಹವು ವಿಧಿವಿಹಿತವಾಗಿ ನೆರವೇರಿದಂತಾಗುವುದೋ ಅದೇ ಮಂತ್ರಾದಿಗಳ ಉಚ್ಚಾರಣೆಗಳೂ, ಕರ್ಮಾದಿಗಳೂ ಅಥವಾ ಏರ್ಪಾಡುಗಳೂ ಒಬ್ಬ ಹಿಂದೂ ವಿಧವೆಯ ವಿವಾಹದ ಸಂಬಂಧದಲ್ಲೂ ನಡೆದಲ್ಲಿ, ಆ ವಿವಾಹವೂ ಕೂಡ ಅದೇ ರೀತಿ ವಿಧಿವಿಹಿತವಾದಂತೆ ಭಾವಿಸಲ್ಪಡತಕ್ಕುದು ; ಅಲ್ಲದೆ ಆ ಮಂತ್ರಾದಿಗಳ ಉಚ್ಚಾರಣೆಗಳೂ, ಕರ್ಮಾದಿಗಳೂ, ಅಥವಾ ಏರ್ಪಾಡುಗಳೂ ವಿಧವೆಯ ವಿಷಯಕ್ಕೆ ಅನ್ವಯಿಸುವುದಿಲ್ಲವೆಂಬ ಕಾರಣದಮೇಲೆ ಯಾವ ಮದುವೆಯನ್ನೂ ವಿಧಿವಿಹಿತವಲ್ಲವೆಂದು ತೀರ್ಮಾನಿಸತಕ್ಕದಲ್ಲ.

ವಿಧವೆಯ ಪುನರ್ವಿವಾಹಕ್ಕೆ ಸಮ್ಮತಿ.

4. ಯಾವ ವಿಧವೆಗೆ ಹದಿನಾರು ವರ್ಷಗಳ ವಯಸ್ಸು ತುಂಬಿಲ್ಲವೋ ಮತ್ತು ಯಾರ ಮೊದಲನೆಯ ವಿವಾಹದಲ್ಲಿ ನಿಷೇಕಪ್ರಸ್ತವು ನೆರವೇರಿಲ್ಲವೋ ಆ ವಿಧವೆಯು, ತನ್ನ ಪೋಷಕರ ಸಮ್ಮತಿಯಿಲ್ಲದೆ ಎಂದರೆ ಅನುಕ್ರಮವಾಗಿ ತನ್ನ ತಂದೆ, ಅಥವಾ ತನ್ನ ತಾಯಿ ಅಥವಾ ತನ್ನ ಸಮೀಪ ಸಂಬಂಧಿಗಳಾದ ಗಂಡಸರು ಇವರ ಸಮ್ಮತಿಯಿಲ್ಲದೆ ಮತ್ತೆ ವಿವಾಹ ಮಾಡಿಕೊಳ್ಳತಕ್ಕುದಲ್ಲ.

ಸಮ್ಮತಿ ದೊರೆತಿರಲಲ್ಲವೆಂದು ರುಜುವಾತಾಗುವವರೆಗೆ ಪೋಷಕರು ಸಮ್ಮತಿಯನ್ನು ಕೊಟ್ಟಿದ್ದರೆಂದೇ ಅನುಮೇಯವಿರತಕ್ಕುದು.

ಹದಿನಾರು ವರ್ಷಗಳ ವಯಸ್ಸು ತುಂಬಿದ ವಿಧವೆಯ ವಿಷಯದಲ್ಲಿ ಅಥವಾ ಮೊದಲನೆಯ ವಿವಾಹದಲ್ಲಿ ನಿಷೇಕಪ್ರಸ್ತವು ನಡೆದಿದ್ದ ವಿಧವೆಯ ವಿಷಯದಲ್ಲಿ, ಪುನರ್ವಿವಾಹದ ಸಂಬಂಧದಲ್ಲಿ ನಿಷೇಕಪ್ರಸ್ತ ಸಂಸ್ಕಾರವಾದ ತರುವಾಯ ಅಂಥ ಯಾವ ಮದುವೆಯನ್ನೂ ಅಸಿದ್ಧವಾದ ಮದುವೆಯೆಂದು ತೀರ್ಮಾನಿಸತಕ್ಕುದಲ್ಲ. ಆಕೆಯ ಪುನರ್ವಿವಾಹವು ನ್ಯಾಯಸಮ್ಮತವೂ ಮತ್ತು ಸಿಂಧುವೂ ಆಗುವುದಕ್ಕೆ ಆಕೆಯ ಸ್ವಂತ ಒಪ್ಪಿಗೆಯೇ ಸಾಕಾದಷ್ಟುಮಟ್ಟಿನ ಸಮ್ಮತಿಯೆಂದು ಭಾವಿಸತಕ್ಕುದು.

ವಿಧವೆಯು ವಿವಾಹ ಮಾಡಿಕೊಂಡಾಗಲೂ ಆಕೆಗೆ ಇರುವ ಹಕ್ಕುಗಳನ್ನು ಕಾಪಾಡುವುದು.

5. ಈ ವಿಷಯದಲ್ಲಿ ಮುಂದೆ ಏರ್ಪಡಿಸಿರುವ ನಿಯಮಗಳ ಮೇರೆಗೆ ಪಿನಾ ಇತರ ಸಂದರ್ಭಗಳಲ್ಲಿ ಒಬ್ಬ ವಿಧವೆಯು, ತಾನು ಪುನಃ ವಿವಾಹಮಾಡಿಕೊಳ್ಳದೆ ಇದ್ದ ಪಕ್ಷದಲ್ಲಿ ಯಾವ ಆಸ್ತಿಯನ್ನು ಅಥವಾ ಹಕ್ಕನ್ನು ಹೊಂದಲು ಅವಕಾಶವಿರುತ್ತಿದ್ದಿತೋ ಅಂಥ ಯಾವ ಆಸ್ತಿಯನ್ನಾಗಲಿ ಅಥವಾ ಯಾವ ಹಕ್ಕನ್ನಾಗಲಿ ಆಕೆಯು ಪಡೆಯಲು, ಆಕೆಯು ಪುನರ್ವಿವಾಹ ಮಾಡಿಕೊಂಡಳೆಂಬ ಕಾರಣದಿಂದ ಅವಕಾಶವು ತಪ್ಪತಕ್ಕುದಲ್ಲ. ಪುನರ್ವಿವಾಹ ಮಾಡಿಕೊಂಡ ಪ್ರತಿಯೊಬ್ಬ ವಿಧವೆಗೂ ಆಕೆಯು ಪುನಃ ಮಾಡಿಕೊಂಡ ವಿವಾಹವು ನ್ಯಾಯಸಮ್ಮತವಾದ ವಿವಾಹವಾಗಿದ್ದರೆ ಆಕೆಗೆ ಯಾವ ದಾಯದ ಹಕ್ಕುಗಳಿರುತ್ತಿದ್ದಿತೋ ಅವೇ ಹಕ್ಕುಗಳೇ ಇರತಕ್ಕುದು.

ಪುನರ್ವಿವಾಹ ನಡೆದ ಮೇಲೆ ವಿಧವೆಯ ಹಕ್ಕುಗಳ ಪರಿಣಾಮ.

6. ಒಬ್ಬ ವಿಧವೆಯು ತನ್ನ ಗಂಡನು ಮೃತಪಟ್ಟ ಕಾಲದಿಂದಲೂ ಪಡೆದಿರತಕ್ಕ ಎಲ್ಲ ಹಕ್ಕುಗಳೂ ಮತ್ತು ಪ್ರಯೋಜನಾಂಶಗಳೂ ಸಹ ಅವಳು ಮೃತಪಟ್ಟರೆ ಹೇಗೆ ನಿಂತುಹೋಗಿ ಉತ್ತರ ವಾರಸುದಾರರಿಗೆ ಸೇರಿಹೋಗುತ್ತಿದ್ದುವೋ ಅದೇ ರೀತಿ ಆಕೆಯು ಪುನರ್ವಿವಾಹ ಮಾಡಿಕೊಂಡ ನಂತರವೂ ಆಕೆಗೆ ತಪ್ಪಿಹೋಗತಕ್ಕುದು ಮತ್ತು ಆಕೆಯು ಮೃತಪಟ್ಟಿದ್ದರೆ ಅವಳ ಗಂಡನ ಸಂಬಂಧಿಗಳಾದ ಉತ್ತರ ವಾರಸುದಾರರಿಗೆ ಅಥವಾ ಇತರರಿಗೆ ಹೇಗೆ ಅವು ಸೇರಿಹೋಗುತ್ತಿದ್ದುವೋ ಅದೇ ಉತ್ತರ ವಾರಸುದಾರರಾದ ಆಸಾಮಿಗಳಿಗೇ ಅಥವಾ ಹಕ್ಕುದಾರರಾದ ಇತರರಿಗೇ ಆ ಹಕ್ಕುಗಳೂ ಪ್ರಯೋಜನಾಂಶಗಳೂ ಆಕೆಯ ಪುನರ್ವಿವಾಹವು ನಡೆದ ಬಳಿಕಲೂ ಹಾಗೆಯೇ ಸೇರಿ ಸಲುವಳಿಯಾಗತಕ್ಕುದು.

Iನೆಯ ವಿನಾಯಿತಿ.—ಅವಳು ಪುನರ್ವಿವಾಹ ಮಾಡಿಕೊಳ್ಳುವ ಕಾಲದಲ್ಲಿ ಆ ಆಸ್ತಿಯನ್ನು ಪಡೆಯಲು ಉತ್ತರ ವಾರಸುದಾರರಾಗಲಿ ಅಥವಾ ಹಕ್ಕುದಾರರಾದ ಇತರ ಜನರಾಗಲಿ ಇಲ್ಲದ ಪಕ್ಷದಲ್ಲಿ ಆಕೆಯು ತನ್ನ ಮೊದಲಿನ ಗಂಡನಿಂದ ಪಡೆದಿದ್ದ ಆಸ್ತಿಯು ಆಕೆಗೆ ಪೂರ್ಣಾಧಿಕಾರವುಳ್ಳ ಆಕೆಯ ಸ್ವಂತ ಸ್ವತ್ತೆಂದೇ ಭಾವಿಸಲ್ಪಡತಕ್ಕುದು.

IIನೆಯ ವಿನಾಯಿತಿ.—ಪರಭಾರೆ ಮಾಡದಂತೆ ಅಧಿಕಾರವನ್ನು ಕೊಟ್ಟ ಒಂದು ಪರಿಮಿತವಾದ ಹಕ್ಕುಳ್ಳ ಆಸ್ತಿಯು ಮಾತ್ರ ಆಕೆಗೆ ಒಂದು ದಾನಪತ್ರದ ಮೂಲಕ ಅಥವಾ ಮರಣಶಾಸನ ಪತ್ರದ (" ಉಯಿಲನ ") ಮುಖಾಂತರ ಕೊಡಲ್ಪಟ್ಟಲ್ಲಿ, ಅಂಥ ಯಾವುದೇ ಆಸ್ತಿಯಲ್ಲಿ ಆಕೆಗೆ ಇರುವ ಹಕ್ಕುಗಳೂ ಮತ್ತು ಪ್ರಯೋಜನಾಂಶಗಳೂ ಆಕೆಗೆ ಪೂರ್ಣಾಧಿಕಾರದೊಡನೆ ಕೊಡಲ್ಪಟ್ಟವೆಂದೇ

ಭಾವಿಸಲ್ಪಡತಕ್ಕುದು ; ಎಂದರೆ ಪುನರ್ವಿವಾಹವಾಗುವುದನ್ನು ನಿರ್ದಿಷ್ಟವಾಗಿ ನಿಷೇಧಿಸಿ, ಆ ಷರತ್ತಿನ ಮೇಲೆ ಆ ದಾನಪತ್ರದಿಂದ ಸ್ವತ್ತುಗಳು ಕೊಡಲ್ಪಟ್ಟಿರುವ ಅಥವಾ ಆ ಷರತ್ತಿನ ಮೇಲೆ ಮರಣ ಶಾಸನ ಪತ್ರದಿಂದ ಸ್ವತ್ತುಗಳು ಕೊಡಲ್ಪಟ್ಟಿರುವ ಸಂದರ್ಭಗಳಲ್ಲಿ ಹೊರತು ಉಳಿದವುಗಳಲ್ಲಿ ಅವಳಿಗೆ ಅವುಗಳನ್ನು ಪರಭಾರೆ ಮಾಡುವ ಹಕ್ಕು ಕೂಡ ಇರತಕ್ಕುದು.

ಮೃತಪಟ್ಟ ಗಂಡನಿಂದ ವಿಧವೆಗೆ ಮಕ್ಕಳಾಗಿದ್ದು ಅಂಥ ವಿಧವೆಯು ಪುನರ್ವಿವಾಹವಾದ ಪಕ್ಷದಲ್ಲಿ ಆ ಮಕ್ಕಳ ಪೋಷಕರು ಯಾರಾಗಿರತಕ್ಕುದೆಂಬ ವಿಚಾರ.

7. ಹಿಂದೂ ವಿಧವೆಯ ಮೃತಪಟ್ಟ ಗಂಡನು ತನ್ನ ಮಕ್ಕಳ ಪೋಷಣೆಯ ಜವಾಬ್ದಾರಿಯನ್ನು "ಉಯಿಲಿನ" ಅಥವಾ ಮರಣ ಶಾಸನ ಪತ್ರದ ಮೂಲಕವಾಗಿ ತನ್ನ ಹೆಂಡತಿಗೆ ಅಥವಾ ಇತರ ಯಾರಿಗಾದರೂ ನಿರ್ದಿಷ್ಟವಾಗಿ ವಹಿಸಿಲ್ಲದಿರತಕ್ಕ ಸಂದರ್ಭದಲ್ಲಿ ಮತ್ತು ಆ ಮನುಷ್ಯನು ಮೃತಪಟ್ಟ ಕಾಲದಲ್ಲಿ ಯಾವ ಸ್ಥಳದಲ್ಲಿ ವಾಸಮಾಡುತ್ತಿದ್ದನೋ ಅಂಥ ಪ್ರದೇಶದ ಮೇಲೆ ಸಿವಿಲ್ ಮೊಕದ್ದಮೆಗಳ ಸಂಬಂಧದಲ್ಲಿ ಅಸಲು ಅಧಿಕಾರವ್ಯಾಪ್ತಿಯಿರತಕ್ಕುದಾಗಿ ಇಂಥ ವಿಷಯಗಳ ಸಂಬಂಧದಲ್ಲಿ ವಿಚಾರಣೆ ನಡೆಯಿಸುವ ಅಧಿಕಾರವುಳ್ಳ ಕೋರ್ಟಿಗೆ, ಮೃತಪಟ್ಟ ಮನುಷ್ಯನ ತಂದೆಯಾಗಲಿ ಅಥವಾ ತಂದೆಯ ತಂದೆಯಾಗಲಿ ಅಥವಾ ತಾಯಿಯಾಗಲಿ ಅಥವಾ ಅಜ್ಜಿಯಾಗಲಿ ಅಥವಾ ಮೃತಪಟ್ಟ ಮನುಷ್ಯನ ಸಂಬಂಧಿಗಳಾಗಿರತಕ್ಕ ಇತರ ಯಾರಾದರೂ ಗಂಡಸರಾಗಲಿ ಅರ್ಜಿ ಹಾಕಿಕೊಂಡುದರ ಮೇಲೆ ಆ ಕೋರ್ಟಿನವರು ಅಂಥ ಮಕ್ಕಳ ಪೋಷಣೆಯನ್ನು ತಾಯಿಗೆ ವಹಿಸಿಕೊಡದೆ ಸರಿಯಾದ ಬೇರೆ ಜನರಿಗೆ ಅದನ್ನು ವಹಿಸಿ ಅವರನ್ನು ನೇಮಕ ಮಾಡುವವರೆಗೆ ಅಂಥ ತನ್ನ ಮಕ್ಕಳನ್ನು ಅಥವಾ ಅವರ ಪೈಕಿ ಯಾರನ್ನೇ ಆಗಲಿ, ಅವರು ಅಪ್ರಾಪ್ತ ವಯಸ್ಕರಾಗಿರುವ (ಮೈನರಾಗಿರುವ) ಕಾಲದಲ್ಲಿ, ತನ್ನ ಪೋಷಣೆಯಲ್ಲಿ ಮತ್ತು ತನ್ನ ಸುಪರ್ದಿನಲ್ಲಿ ಇಟ್ಟುಕೊಳ್ಳುವ ಹಕ್ಕು ಪುನರ್ವಿವಾಹ ಮಾಡಿಕೊಂಡ ಹಿಂದೂ ವಿಧವೆಗೆ ಇರತಕ್ಕುದು ; ಅಂಥ ವಿಧವೆಯ ಮಕ್ಕಳ ಪೋಷಣೆಯನ್ನು ಆಕೆಯಿಂದ ತಪ್ಪಿಸಿ ಬೇರೆ ಜನರನ್ನು ನೇಮಕ ಮಾಡುವ ಸಂದರ್ಭದಲ್ಲಿ, ಕೋರ್ಟಿನವರು, ತಂದೆ ಮತ್ತು ತಾಯಿ ಇವರಿಬ್ಬರೂ ಇಲ್ಲದಿರುವ ಮಕ್ಕಳ ಪೋಷಕರನ್ನು ಗೊತ್ತುಮಾಡುವ ಸಂಬಂಧದಲ್ಲಿ ಯಾವ ಕಾನೂನುಗಳು ಮತ್ತು ನಿಬಂಧನೆಗಳು ಜಾರಿಯಲ್ಲಿವೆಯೋ ಅದೇ ಕಾನೂನುಗಳು ಮತ್ತು ನಿಬಂಧನೆಗಳನ್ನು ಸಾಧ್ಯವಾದಷ್ಟುಮಟ್ಟಿಗೂ ಅನುಸರಿಸಿಯೇ ತೀರ್ಮಾನ ಕೊಡತಕ್ಕುದು ;

ಪರಂತು, ಅಂಥ ಮಕ್ಕಳು ಅಪ್ರಾಪ್ತವಯಸ್ಕರಾಗಿರುವ (ಮೈನರುಗಳಾಗಿರುವ) ಕಾಲದಲ್ಲಿ ಅವರ ಪೋಷಣೆಗಾಗಿಯೂ ಮತ್ತು ಅವರಿಗೆ ಸರಿಯಾದ ವಿದ್ಯಾಭ್ಯಾಸ ಮಾಡಿಸುವುದಕ್ಕಾಗಿಯೂ ಸಾಕಾಗುವಷ್ಟು ಸ್ವತ್ತು ಆ ಮಕ್ಕಳಿಗೆ ಇಲ್ಲದಿರುವ ಸಂದರ್ಭದಲ್ಲಿ, ಅಂಥ ಮಕ್ಕಳ ಪೋಷಕರಾಗಿ ನೇಮಕ ಮಾಡಲ್ಪಡಬೇಕೆಂದಿರುವವರು ಆ ಮಕ್ಕಳು ಅಪ್ರಾಪ್ತವಯಸ್ಕರಾಗಿರುವ (ಮೈನರುಗಳಾಗಿರುವ) ಕಾಲದಲ್ಲಿ ಅವರ ಪೋಷಣೆಯನ್ನು ನಡೆಯಿಸುವ ವಿಷಯದಲ್ಲಿಯೂ ಮತ್ತು ಅವರಿಗೆ ಸರಿಯಾದ ವಿದ್ಯಾಭ್ಯಾಸ ಮಾಡಿಸುವ ವಿಷಯದಲ್ಲಿಯೂ ಜಾಮೀನನ್ನು ಕೊಟ್ಟ ಹೊರತು, ಅಂಥ ಮಕ್ಕಳ ತಾಯಿಯ ಸಮ್ಮತಿಯು ದೊರೆತಲ್ಲದೆ ಅನ್ಯಥಾ ಯಾವ ಜನರನ್ನೂ ಕೋರ್ಟಿನವರು ಆ ರೀತಿ ಪೋಷಕರಾಗಿ (ಗಾರ್ಡಿಯನರಾಗಿ) ಇರುವಂತೆ ನೇಮಕ ಮಾಡತಕ್ಕುದಲ್ಲ.

ಪರಂತು, ಆ ವಿಧವೆಯೇ ಅಂಥ ಮಕ್ಕಳ ಪೋಷಕಳಾಗಿರತಕ್ಕುದೆಂದು "ಉಯಿಲಿನ" ಅಥವಾ ಮರಣಶಾಸನ ಪತ್ರದ ಮೂಲಕವಾಗಿ ಆಕೆಯ ಮೃತ ಪಟ್ಟ ಗಂಡನು ಸ್ಪಷ್ಟವಾದ ರೀತಿಯಲ್ಲಿ ನೇಮಕ ಮಾಡಿರುವ ಸಂದರ್ಭದಲ್ಲಿ ಕೋರ್ಟಿನವರು ಮೇಲೆ ಕಂಡ ರೀತಿ ಬೇರೆ ಯಾರನ್ನೂ ನೇಮಕ ಮಾಡತಕ್ಕುದಲ್ಲ.

ಉದ್ದೇಶಗಳ ಮತ್ತು ಕಾರಣಗಳ ವಿವರಣೆ.

ಹಿಂದೂ ವಿಧವೆಯರ ಪುನರ್ವಿವಾಹದ ವಿಷಯದಲ್ಲಿ ಕಾನೂನಿನ ಬಲೀಯವನ್ನು ಕೊಟ್ಟು ಏರ್ಪಟ್ಟಿರುವ, 1856ನೆಯ ಇಸವಿಯ XVನೆಯ ನಂಬರಿನ ಆಕ್ಟಿನಂತಹ ಒಂದು ರೆಗ್ಯುಲೇಷನನ್ನು ಮೈಸೂರು ಸಂಸ್ಥಾನದಲ್ಲಿ, ಇನ್ನೂ ಏರ್ಪಡಿಸಿಲ್ಲ. ಆದುದರಿಂದ, ಈ ವಿಷಯದಲ್ಲಿ, ನಾವುಗಳು ಬ್ರಿಟಿಷ್ ಇಂಡಿಯಾದವರಿಗಿಂತಲೂ, ವಾಸ್ತವವಾಗಿಯೂ ಹಿಂದುಳಿದಿರುತ್ತೇವೆ. ಹಿಂದೂ ಧರ್ಮಶಾಸ್ತ್ರದಲ್ಲಿ ಸಂಪ್ರದಾಯಕ್ಕನುಸಾರವಾಗಿ ಮಾಡಿರುವ ಅರ್ಥನಿರ್ಣಯದಲ್ಲೂ ಅಥವಾ ರೂಢಿಯಲ್ಲೂ, ಇದಕ್ಕೆ ವಿರುದ್ಧವಾಗಿದ್ದಾಗ್ಗೂ, ಹಿಂದೂ ವಿಧವೆಯರ ಪೈಕಿ ಪುನರ್ವಿವಾಹ ಮಾಡಿಕೊಳ್ಳಬೇಕೆಂಬ ಇಚ್ಛೆಯುಳ್ಳವರಿಗೆಲ್ಲಿಗೂ ಅನ್ವಯಿಸುವಂತೆ ಮಾಡಬೇಕೆಂಬ ಉದ್ದೇಶದಿಂದ, ದಿವಂಗತರಾದ ಪಂಡಿತ ಈಶ್ವರಚಂದ್ರ ವಿದ್ಯಾಸಾಗರರವರು ನೆರವೇರಿಸಿದ ಪ್ರಯತ್ನಗಳ ಫಲಿತಾಂಶವಾಗಿ, 1856ನೆಯ ಇಸವಿಯ ಬ್ರಿಟಿಷ್ ಇಂಡಿಯಾ ಆಕ್ಟು, ಬ್ರಿಟಿಷ್ ಇಂಡಿಯಾದಲ್ಲಿ ಜಾರಿಗೆ ತರಲ್ಪಟ್ಟಿತು.

ಪುನರ್ವಿವಾಹ ಮಾಡಿಕೊಳ್ಳಬೇಕೆಂದು ಇಷ್ಟವುಳ್ಳ ವಿಧವೆಯರಿಗೆ, ಆ ರೀತಿ ಅವಕಾಶವನ್ನು ಕಲ್ಪಿಸುವುದಕ್ಕಾಗಿ ಮಾತ್ರವೇ, ಈ ಮಸೂದಾ ಕಾನೂನನ್ನು ಏರ್ಪಡಿಸಲಾಗಿದೆ. ಅಲ್ಲದೆ, ಪುನರ್ವಿವಾಹ ಮಾಡಿಕೊಳ್ಳಬೇಕೆಂಬ ಇಷ್ಟವುಳ್ಳ ಹಿಂದೂ ವಿಧವೆಯರ ಪುನರ್ವಿವಾಹದ ವಿಷಯದಲ್ಲಿರತಕ್ಕ ಕಾನೂನಿನ ಅಡ್ಡಿಗಳನ್ನು ಹೋಗಲಾಡಿಸಿ, ಅಂಥ ವಿವಾಹದ ದೆಸೆಯಿಂದ ಹುಟ್ಟಿದ ಮಕ್ಕಳುಗಳನ್ನು, ನ್ಯಾಯವಾದ ದಂಪತಿಗಳಿಗೆ ಹುಟ್ಟಿದ ಮಕ್ಕಳುಗಳಂತೆಯೇ ಭಾವಿಸುವಂತೆ, ಏರ್ಪಡಿಸಬೇಕೆಂಬುದೇ, ಈ ಮಸೂದಾ ಕಾನೂನಿನ ಉದ್ದೇಶ. ಹಿಂದೂಗಳ ಪೈಕಿ ವಿದ್ಯಾವಂತರಾದವರ ತಿಳಿವಳಿಕೆಯು ದಿನೇ ದಿನೇ ಹೆಚ್ಚುತ್ತಲಿದೆ. ಹಿಂದೂಮತಸಂಬಂಧವಾದ ನಿಯಮಗಳ ವಾಸ್ತವವಾದ ಅರ್ಥನಿರ್ಣಯದ ಪ್ರಕಾರ ನೋಡಿದರೆ ಹಿಂದೂ ವಿಧವೆಯರ ಪುನರ್ವಿವಾಹವು ನಿಷಿದ್ಧವಾಗಿಲ್ಲವೆಂದೂ ಅವರಿಗೆ ಭಾವನೆಯು ಹುಟ್ಟುತ್ತಿದೆ; ಮತ್ತು ನ್ಯಾಯದೃಷ್ಟಿಯಿಂದಲೂ ಮತ್ತು ನಿಷ್ಪಕ್ಷಪಾತ ದೃಷ್ಟಿಯಿಂದಲೂ ನೋಡಿದರೂ ವಿಧವಾ ವಿವಾಹವು ಯುಕ್ತವೆಂದು ಅವರಿಗೆ ತೋರಿಬರುತ್ತಿದೆ. ಆದುದರಿಂದ, ಅದಕ್ಕನುಗುಣವಾಗಿ ಕಾನೂನಿನಲ್ಲಿ ಅವಕಾಶವನ್ನು ಕಲ್ಪಿಸಬೇಕೆಂಬ ಉದ್ದೇಶದಿಂದ ಈ ಮಸೂದಾ ಕಾನೂನನ್ನು ರಚಿಸಲಾಗಿದೆ. ಪುನರ್ವಿವಾಹ ಮಾಡಿಕೊಳ್ಳಲು ಜಾತಿ ಪದ್ಧತಿ ಮೇರೆಗೆ ಅವಕಾಶವಿರುವ ಹಿಂದೂ ವಿಧವೆಯರ ಹಕ್ಕಿನ ವಿಷಯದಲ್ಲಿ, ಇದು ಅನ್ವಯಿಸುವುದಿಲ್ಲ.

ಹಿಂದೂ ಧರ್ಮಶಾಸ್ತ್ರದ ಮೇರೆಗೆ ಏರ್ಪಟ್ಟಿರುವ ನಿಯಮಗಳಿಗನುಸಾರವಾಗಿಯೇ, ಹಿಂದೂ ವಿಧವೆಯು ಸ್ವಗೋತ್ರದವರನ್ನು ವಿವಾಹ ಮಾಡಿಕೊಳ್ಳಕೂಡದೆಂದೂ ಮತ್ತು ವಿವಾಹವು ನಿಷಿದ್ಧವಾಗಿರುವ ಸಮೀಪ ಬಂಧುಗಳನ್ನು ಮದುವೆ ಮಾಡಿಕೊಳ್ಳಕೂಡದೆಂದೂ ಈ ಮಸೂದಾ ಕಾನೂನಿನಲ್ಲಿ ವಿಧಾಯಕ ಮಾಡಿದೆ. ಪುನರ್ವಿವಾಹದ ಉದ್ದೇಶಗಳಿಗಾಗಿ ವಿಧವೆಯ ಗೋತ್ರವು ಆಕೆಯ ತಂದೆಯ

ಗೋತ್ರವೇ ಎಂದು ಭಾವಿಸತಕ್ಕುದೆಂದು ಗೊತ್ತುಮಾಡಿದೆ. ಪ್ರಥಮ ವಿವಾಹದ ವಿಷಯದಲ್ಲಿ ಅನುಸರಿಸುವ ವಿಧ್ಯುಕ್ತಕರ್ಮಗಳನ್ನೇ ವಿಧವಾ ವಿವಾಹದ ವಿಷಯದಲ್ಲಿ ಕೂಡ ಅನುಸರಿಸತಕ್ಕುದೆಂದು ವಿಧಾಯಕ ಮಾಡಿದೆ. ಒಬ್ಬಳು ಹಿಂದೂ ವಿಧವೆಗೆ ಅವಳ ಪ್ರಥಮ ವಿವಾಹದ ಸಂಬಂಧದಲ್ಲಿ ನಿಷೇಕಪ್ರಸ್ತವಾಗಿದ್ದ ಸಂದರ್ಭದಲ್ಲಿ ಹೊರತು ಉಳಿದ ಸಂದರ್ಭಗಳಲ್ಲಿ ಅಪ್ರಾಪ್ತವಯಸ್ಕರಾದ (ಮೈನರ್) ವಿಧವೆಯರ ಪುನರ್ವಿವಾಹದ ವಿಷಯದಲ್ಲಿ ಆಕೆಯ ಪೋಷಕರ ಅನುಮತಿಯು ಅಗತ್ಯವೆಂದು ನಿಬಂಧನೆಯೆನ್ನು ರಚಿಸಲಾಗಿದೆ.

ವಿಧವೆಯು ವಿವಾಹ ಮಾಡಿಕೊಂಡರೆ, ಆಕೆಯು ತನ್ನ ಪೂರ್ವದ ಗಂಡನ ಆಸ್ತಿಯಲ್ಲಿ ಪಡೆದಿದ್ದ ಹಕ್ಕು ಆಕೆಗೆ ತಪ್ಪಿಹೋಗುತ್ತದೆ ; ಆತನಿಂದ ಆಕೆಗೆ ಬಂದಿದ್ದ ಎಲ್ಲ ಹಕ್ಕುಗಳೂ ತಪ್ಪಿಹೋಗಿ, ಅವು ಆತನ ಆಸ್ತಿಗೆ ಅವಳ ತರುವಾಯ ಉತ್ತರ ವಾರಸುದಾರರಾದವರಿಗೆ ಅಥವಾ ಹಕ್ಕುದಾರರಾದ ಬಾಧ್ಯಸ್ಥರಿಗೆ ಸೇರುತ್ತವೆ. ಅಂಥವರು ಯಾರೂ ಇಲ್ಲದಿದ್ದಪಕ್ಷದಲ್ಲಿ, ಪುನರ್ವಿವಾಹ ಮಾಡಿಕೊಂಡ ವಿಧವೆಯು ಆ ಆಸ್ತಿಗಳನ್ನು ತನ್ನ ಸ್ವಂತ ಸ್ವತ್ತಿನಂತೆ ಅದನ್ನು ಪೂರ್ಣಾಧಿಕಾರದೊಡನೆ ಅನುಭವಿಸಲು ಹಕ್ಕುದಾರಳಾಗಿರುತ್ತಾಳೆ. ಒಬ್ಬ ವಿಧವೆಯು ಪುನರ್ವಿವಾಹ ಮಾಡಿಕೊಳ್ಳಕೂಡದೆಂದು ನಿರೋಧಿಸಿ, ದಾನಪತ್ರದಲ್ಲಿ ಅಥವಾ ಮರಣಶಾಸನ ಪತ್ರದಲ್ಲಿ ನಮೂದಿಸಿದ್ದ ವಿನಾ, ಒಬ್ಬ ವಿಧವೆಯು ದಾನಪತ್ರದ ಮೇರೆಗೆ ಅಥವಾ ಮರಣಶಾಸನದ ಮೇರೆಗೆ ಪಡೆದ ಆಸ್ತಿಯಲ್ಲಿ ಆಕೆಯು ಹೊಂದಿರುವ ಹಕ್ಕುಗಳೆಲ್ಲವೂ ಪೂರ್ಣಾಧಿಕಾರವುಳ್ಳ ಆಸ್ತಿಯ ಹಕ್ಕುಗಳೆಂದೇ ಭಾವಿಸಲ್ಪಡತಕ್ಕುದೆಂದು ನಿಬಂಧನೆಯನ್ನು ರಚಿಸಲಾಗಿದೆ.

ಪುನರ್ವಿವಾಹ ಮಾಡಿಕೊಂಡ ವಿಧವೆಯು ತನ್ನ ಮೊದಲನೆಯ ಗಂಡನಿಂದ ಪಡೆದ ಮಕ್ಕಳನ್ನು—ಆ ಮಕ್ಕಳಲ್ಲಿ ಆಸಕ್ತಿಯುಳ್ಳ ಜನರು ದಾವಾ ಅರ್ಜಿ ಕೊಟ್ಟುದರ ಮೇಲೆ ಆ ಮಕ್ಕಳಿಗೆ ಸಿವಿಲ್ ಕೋರ್ಟಿನವರು ಮತ್ತೊಬ್ಬರನ್ನು ಆಕೆಯ ಬದಲಾಗಿ ಪೋಷಕರನ್ನಾಗಿ ನೇಮಕ ಮಾಡುವವರೆಗೂ—ತನ್ನ ಸ್ವಾಧೀನದಲ್ಲಿಟ್ಟುಕೊಂಡು ಆ ಮಕ್ಕಳಿಗೆ ಪೋಷಕಳಾಗಿರುವುದಕ್ಕೆ ಅವಕಾಶವಿರುವಂತೆ ನಿಬಂಧನೆಯನ್ನು ರಚಿಸಲಾಗಿದೆ.

ಮೈಸೂರು ಸರ್ಕಾರದ ಮುದ್ರಣಾಲಯದ ಸೂಪರಿಂಟೆಂಡೆಂಟರವರಿಂದ
ಮುದ್ರಿಸಲ್ಪಟ್ಟಿತು—ಬೆಂಗಳೂರು.

Bill to removal all legal obstacles to the Marriage of Hindu Widows in the Mysore State.

Select Committee proceedings.

A meeting of the Select Committee on the Bill to ~~xxxxxx~~ remove all legal obstacles to the Marriage of Hindu Widows in the Mysore State was held ~~commencing at 4.40 p.m., on Tuesday, 12th April 1938~~, in the Chambers of the First Member of Council, Commencing at 4.40 Pm on Tuesday, 12-4-38

The following members were present:-

Rajamantrapravina S.P. Rajagopalachari
First Member of Council (Chairman)

Mr. K.R. Subbannachar.
Mr. T. Ramachandra.
Mr. Mirle N. Lakshminaranappa.
Mr. B.T. Kesavaiengar.
Mr. A.V. Ramanathan.

Mr. A. Sundararaja Rao (U.Secy.)

Mr. Mirle N. Lakshminaranappa suggested that the words ~~xx~~ "good morals and to the" in the preamble be deleted. This was accepted by the House.

Clause 1. It was considered unnecessary to give 6 months time ~~xxxxx

Clause 4.

Mr. A.V. Ramanathan pointed out that this clause which corresponded to Section 7 of the British Indian Act was defective in that one or two intervening sentences which were to be found in the latter had been omitted. It was either necessary to introduce those sentences or to delete the second para of the clause. As the paras stood at present, there was a clash because what was proposed in the first para would be nullified by the second.

This point was discussed in great detail and the Committee arrived at the conclusion that Section 7 of the British Indian Act be substituted for this clause.

Clause. 5.

The only suggestion made in this clause was that the second "such" appearing in the last line of the clause be substituted by the words "her first". This amendment was accepted.

Clause 6.

The Committee thought that as Section 2 of the ~~Government~~ British Indian Act was more comprehensive, and the same might be substituted for clause 6, and that the exceptions might be deleted.

Clause 7.

~~This~~ The Committee thought that this clause might be redrafted on the lines of the British Indiam Act - Section 3.

At this stage, Mr. Lakshminaranappa brought to notice that while according to the proposed measure a Hindu widow would lose all rights and interests inherited from her deceased ~~husband~~ husband on her remarriage,

Referring to Re rights of inheritance of widows

Mr. Lakshminaranappa said that ~~a certain defect under clause 6 should be set right.~~ Under the law as proposed, ~~xxxx

Report of the Select Committee on the Hindu Widows Marriage Bill.

We, the members of the Select Committee appointed to consider the Hindu Widows Marriage Bill have considered the Bill and have now the honour to submit this our report.

Preamble:- The main object of the measure is to remove the legal obstacles to the remarriage of such Hindu widows as wish to remarry and to hold offsprings of such marriages legitimate. We consider the words "good morals and to the" as unnecessary and we accordingly recommend that they may be omitted.

Clause 4:- This clause as it is at present worded is vague and defective. There is no such thing as "guardian in marriage" recognised under Hindu law. The clause does not also effectively protect the interest of minor widows who may be enticed to marry by persons other than her near relatives who will safeguard her interests. We recommend that instead of this caluse the following be substituted:-

clause which is substantially the same as Section of the British Indian Act

"If the widow re-marrying is a minor whose marriage has not been consummated,

Consent to re-marriage of minor widow.

she shall not remarry without the consent of her father, or if she has no father, of her paternal grandfather, or if she has no such grandfather, of her mother, or failing all these, of her elder brother of failing also brothers of her

next male relative.

All persons knowingly abetting a marriage made contrary to the provisions of this section shall be liable to imprisonment for any term not exceeding one year or to fine or to both.

Punishment for abetting marriage made contrary to this section.

And all marriages made contrary to the provisions of this section may be declared void by a Court of law: Provided, that in any question regarding the validity of a marriage made contrary to the provisions of this section, such consent as is aforesaid shall be presumed until the contrary is proved, and that no such marriage shall be declared void after it has been consummated.

Effect of such marriage. Proviso.

In the case of a widow who is of full age, or whose marriage has been consummated, her own consent shall be sufficient consent to constitute her re-marriage lawful and valid".

Consent to re-marriage of major widow.

Clause 5.- A slight verbal change has to be made in this clause. The word "such" occurring before "marriage" at the end of this clause ought to be changed to "her first"

Clause 6.- A distinction is made in this clause between property inherited by a widow from her deceased husband and property got by her by gift or testamentary disposition. In the former case her rights cease on remarriage while in the latter she is given an absolute estate unless there is

an express prohibition to remarry. We see no justification for such a distinction. On her remarriage she must ~~xx~~ be considered to be civilly dead and she must forfeit all her rights in the property of her husband by whatever means obtained. The widow being civilly dead in respect of her rights to the property of her deceased husband she cannot claim it even in the absence of next heirs of her deceased husband as provided for in the exception.

We recommend that the following clause which is comprehensive may be substituted for the present clause 6:-

"All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors, or by virtue of any will or testamentary disposition conferring upon her, without express permission to re-marry, only a limited interest in such property, with no power of alienating the same, shall upon her re-marriage cease and determine as if she had then died; and the next heirs of her deceased husband, or other persons entitled to the property on her death, shall thereupon succeed to the same".

Rights of widow in deceased husband's property to cease on her re-marriage.

Clause 7.- The clause also is not worded clearly. The object is to see that the interests of the children by the first marriage are safeguarded. The second proviso is also unnecessary as the question of appointment of a guardian by the Court

arises only when the widow has not been expressly constituted guardian by will. We recommend that the following be substituted for this clause:-

"On the re-marriage of a Hindow widow, if niether the widow nor any other person

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Guardian of children of deceased husband on the re-marriage of his widow. | has been expressly constituted

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by the will or testamentary disposition of the deceased husband the guardian of his children the father or paternal grandfather or the mother or paternal grandmother, of the deceased husband, or any male relative of the deceased husband, may petition the highest Court having original jurisdiction in civil cases in the place where the deceased husband was domiciled at the time of his death for the appointment of some proper person to be guardian of the said children, and thereupon it shall be lawful for the said Court, if it shall think fit, to appoint such guardian, who when appointed shall be entitled to have the care and custody of the said children, or of any of them during their minority, in the place of their mother; and in making such appointment the Court shall be guided, so far as may be by the laws and the rules in force touching the guardianship of children who have neither father nor mother.

Provided that when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointment shall be made otherwise than with the consent of the mother unless the proposed guardian shall

have given security for the support and proper education of the children whilst minors."

As the bill has been amended in material particulars we recommend that it may be republished as amended by us —

S/02

25.4.

NOTIFICATION.

No. 3757—L. C., Bangalore, dated 19th May 1938.

Under Standing Order No. 49 of the standing orders for the conduct of business of the Mysore Legislative Council, the following Report of the Select Committee on the Bill to remove all Legal Obstacles to the marriage of Hindu Widows in the Mysore State is published for general information.

By Order,

A. SUNDARARAJA RAO,

Secretary,
Mysore Legislative Council.

Report of the Select Committee on the Bill to remove all Legal Obstacles to the Marriage of Hindu Widows.

We, the members of the Select Committee appointed to consider the Hindu Widows Marriage Bill have considered the Bill and have now the honour to submit this our report.—

Preamble.—As the main object of the measure is to remove the legal obstacles to the re-marriage of such Hindu Widows as wish to re-marry and to hold offsprings of such marriages legitimate, we consider the words "good morals and to the" as unnecessary and we accordingly recommend that they may be omitted.

Clause 1.—The Act may come into operation at the expiration of one month from the date of its publication.

Clause 4.—This clause as it is at present worded is vague and defective. There is no such thing as "guardian in marriage" recognised under Hindu law. The clause does not also effectively protect the interest of minor widows who may be enticed to marry by persons not expected to safeguard her interests. We recommend that instead of this clause the following clause which is substantially the same as section 7 of the British Indian Act, be substituted.—

Consent to re-marriage of minor widow.

"If the widow re-marrying is a minor whose marriage has not been consummated, she shall not re-marry without the consent of her father, or if she has no father, of her paternal grandfather, or if she has no such grandfather, of her mother, or failing all these, of her elder brother, or failing also brothers, of her next male relative."

Punishment for abetting marriage made contrary to this section.

"All persons knowingly abetting a marriage made contrary to the provisions of this section shall be liable to imprisonment for any term not exceeding one year or to fine or to both."

Effect of such marriage proviso.

"And all marriages made contrary to the provisions of this section may be declared void by a Court of law: Provided, that in any question regarding the validity of a marriage made contrary to the provisions of this section, such consent as is aforesaid shall be presumed until the contrary is proved, and that no such marriage shall be declared void after it has been consummated."

"In the case of a widow who is of full age, or whose marriage has been consummated, her own consent shall be sufficient consent to constitute her re-marriage lawful and valid." Consent to re-marriage of major widow.

Clause 6.—A distinction is made in this clause between property inherited by a widow from her deceased husband and property got by her by gift or testamentary disposition. In the former case her rights cease on re-marriage while in the latter she is given an absolute estate unless there is an express prohibition to re-marry. We see no justification for such a distinction. On her re-marriage she must be considered to be civilly dead and she must forfeit all her rights in the property of her husband by whatever means obtained. The widow being civilly dead in respect of her rights to the property of her deceased husband, she cannot claim it even in the absence of next heirs of her deceased husband as provided for in the exception.

We recommend that the following clause which is comprehensive may be substituted for the present clause 6.—

"All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors, or by virtue of any will or testamentary disposition conferring upon her, without express permission to re-marry, only a limited interest in such property, with no power of alienating the same, shall upon her re-marriage cease and determine as if she had then died; and the next heirs of her deceased husband, or other persons entitled to the property on her death, shall thereupon succeed to the same." Rights of widow in deceased husband's property to cease on her re-marriage.

Clause 7.—This clause also is not worded clearly. The object is to see that the interests of the children by the first marriage are safeguarded. The second proviso is also unnecessary as the question of appointment of a guardian by the Court arises only when the widow has not been expressly constituted guardian by will. We recommend that the following be substituted for this clause.—

"On the re-marriage of a Hindu widow, if neither the widow nor any other person has been expressly constituted by the will or testamentary disposition of the deceased husband the Guardian of children of deceased husband on the re-marriage of his widow.

guardian of his children, the ...ner or paternal grandfather or the mother, ... paternal grandmother, of the deceased ...usband, or any male relative of the deceased husband, may petition the highest Court ...ing original jurisdiction in civil cases in ... place where the deceased husband was do...ciled at the time of his death for the appoi...ent of some proper person to be guardian ... the said children, and thereupon it shall b... awful for the said Court, if it shall think fi... to appoint such guardian, who when appoi...ed shall be entitled to have the care and ...ustody of the said children, or of any of t...m during their minority, in the place of ...heir mother; and in making such appointment the Court shall be guided, so far as may be by the laws and the rules in force touching the guardianship of children who have neither father nor mother:"

"Provided that when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointment shall be made otherwise than with the consent of the mother unless the proposed guardian shall have given security for the support and proper education of the children whilst minors."

As the bill has been amended in material particulars, we recommend that it may be republished as amended by us.

S. P. RAJAGOPALACHARI
(Chairman).
A. V. RAMANATHAN.
K. R. SUBBANNACHAR.
MIRLE N. LAKSHMINARANAPPA.
T. RAMACHANDRA.
B. T. KESAVIENGAR.

Messrs. M. S. Dyave Gowda and Belur Srinivasiengar were unable to be present at the meeting.

[*Portions omitted are enclosed in square brackets and additions are indicated in italics.*]

Bill to Remove all Legal Obstacles to the Marriage of Hindu Widows in the Mysore State.

(AS AMENDED BY THE SELECT COMMITTEE)

Whereas the removal of all legal obstacles to the marriage of Hindu Widows in the State will tend to the promotion of [good morals and to the] public welfare and whereas it is just to hold offsprings of such marriages as legitimate ; It is hereby enacted as follows ;—

Short title, extent and commencement.

1. (*i*) The Act may be called " The Mysore Hindu Widows Marriage Act, 1938."

(*ii*) It shall extend to the whole of the territories of Mysore.

(*iii*) It shall come into operation at the expiration of [six] *one* month[s] from the date of its publication in the official Gazette.

Marriage of Hindu Widows legalised.

2. Notwithstanding any custom and any interpretation of Hindu Law to the contrary, no marriage contracted between Hindus shall be invalid, and no issue of such marriage shall be illegitimate, by reason of the woman having been previously married or betrothed to another person who was dead at the time of such marriage, provided that the parties must not be related to each other in any degree of consanguinity or affinity which would under Hindu Law render a marriage illegal.

Ceremonies constituting valid marriage to have effect on Widows Re-marriage.

3. Whatever words spoken, ceremonies performed or engagements made on the marriage of a Hindu female who has not been previously married are sufficient to constitute a valid marriage, shall have the same effect if spoken, performed or made on the marriage of a Hindu Widow; and no marriage shall be declared invalid on the ground that such words, ceremonies or engagements are inapplicable to the case of a widow.

[4. A widow who has not completed her sixteenth year and whose previous marriage has not been consummated, shall not re-marry without the consent of her guardian in marriage in the order mentioned, *viz.*, her father, her mother or her next male relatives.

Consent to the re-marriage of a Widow.

The consent of the guardian shall be presumed until the contrary is proved.

No such marriage shall be declared void after it has been consummated in the case of a widow who has completed her sixteenth year, or whose previous marriage has been consummated. Her own consent shall be sufficient consent to constitute her re-marriage lawful and valid.]

"4. *If the widow re-marrying is a minor whose marriage has not been consummated, she shall not re-marry without the consent of her father, or if she has no father, of her paternal grandfather, or if she has no such grandfather, of her mother, or failing all these, of her elder brother or failing also brothers of her next male relative.*

Consent to re-marriage of minor widow.

All persons knowingly abetting a marriage made contrary to the provisions of this section shall be liable to imprisonment for any term not exceeding one year or to fine or to both.

Punishment for abetting marriage made contrary to this section.

And all marriages made contrary to the provisions of this section may be declared void by a Court of law: Provided that, in any question regarding the validity of a marriage made contrary to the provisions of this section, such consent as is aforesaid shall be presumed until the contrary is proved, and that no such marriage shall be declared void after it has been consummated.

Effect of such marriage. Proviso.

In the case of a widow who is of full age, or whose marriage has been consummated, her own consent shall be sufficient consent to constitute her re-marriage lawful and valid."

Consent to re-marriage of major widow.

5. Except as hereinafter provided, a widow shall not, by reason of her re-marriage forfeit any property or any right to which she would otherwise be entitled; and every widow who has re-married shall have

Saving of rights of widow marrying.

the same rights of inheritance as she would have had had such marriage been her first marriage.

Rights of widow on her marriage.

[6. All rights and interests which any widow may have inherited from her deceased husband shall upon her re-marriage cease and determine as if she had then died, and the next heirs of her deceased husband, or other persons entitled to the property on her death shall thereupon succeed to the same.

Exception I.—In the absence of such a next heir or person entitled to the property at the time of her re-marriage, the property inherited from her husband shall be deemed to be her absolute property.

Exception II.—Rights and interests in any property by virtue of any gifts or testamentary disposition upon her only a limited estate with no power of alienating the same shall be deemed to confer upon her an absolute estate, *i.e.*, one with power of alienating the same, unless there is an express prohibition to re-marry in the terms evidencing the gift or testamentary disposition.

Guardianship of children of deceased husband on the re-marriage of his widow.

7. On the re-marriage of a Hindu widow, if neither the widow nor any other person has been expressly constituted by the will or testamentary disposition of the deceased husband the guardian of the children, she shall be entitled during their minority to have the care and custody of her children or any of them by her deceased husband until a competent Court having original jurisdiction in civil cases in the place where the deceased was domiciled at the time of his death shall appoint some proper person other than the mother to be guardian on a petition by the father or the paternal grandfather or the mother or the grandmother or any male relative of the deceased husband, and in making such appointment, the said court shall be guided, so far as may be, by the laws and rules in force touching the guardianship of children who have neither father nor mother :

Provided that, when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointments shall be made otherwise than with the consent of the mother unless the proposed guardian shall have given security for the support and proper education of the children during their minority :

Provided also that when the widow has been expressly constituted guardian by the will or testamentary disposition of the deceased husband no such appointment shall be made.]

"6. *All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors, or by virtue of any will or testamentary disposition conferring upon her, without express permission to re-marry, only a limited interest in such property, with no power of alienating the same, shall upon her re-marriage cease and determine as if she had then died; and the next heirs of her deceased husband, or other persons entitled to the property on her death, shall thereupon succeed to the same.*"

Rights of widow in deceased husband's property to cease on her re-marriage.

"7. *On the re-marriage of a Hindu widow, if neither the widow nor any other person has been expressly constituted by the will or testamentary disposition of the deceased husband the guardian of his children, the father or paternal grandfather or the mother or paternal grandmother, of the deceased husband, or any male relative of the deceased husband, may petition the highest Court having original jurisdiction in civil cases in the place where the deceased husband was domiciled at the time of his death for the appointment of some proper person to be guardian of the said children, and thereupon it shall be lawful for the said Court, if it shall think fit, to appoint such guardian, who when appointed shall be entitled to have the care and custody of the said children or of any of them during their minority, in the place of their mother; and in making such appointment the Court shall be guided, so far as may be by the laws and the rules in force touching the guardianship of children who have neither father nor mother:*

Guardian of children of deceased husband on the re-marriage of his widow.

Provided that, when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointment shall be made otherwise than with the consent of the mother unless the proposed guardian shall have given security for the support and proper education of the children whilst minors."

Printed by the Superintendent at the Government Press, Bangalore.

3. Amendment to Bill to remove all legal abstacles to the marriage of Hindu widows.

(a) In clause 1(i) of the amended Bill substitute "The Mysore Hindu widows' Remarriage Act 1938" for "The Mysore Hindu Widows Marriage Act".

(b) In clause 2 of the Bill insert the words "and that a declaration of Marriage is made in writing by the parties thereto before a Magistrate soon after its performance." at the end.

(c) In clause 4 of the amended Bill substitute the word "adult" for "elder" between "her" and "Brother" in line 7.

(d) In the second para of clause 4, add the words "which may amount to Rs.500/-" between "fine" and "or" in line 5.

Mr. D.H. Chandrasekharaiya.

SECRETARIAT OFFICE
1937
No. M. 1416

"I seek not Kingdom, nor Paradise, nor even Salvation;
I seek only the Deliverance from Affliction of the Afflicted."

D 1767

Deena Seva Sangha

CENTRES OF WORK:

1. SEVA ASHRAM, MALLESWARAM.
2. LABOURERS' FELLOWSHIP SCHOOL, SESHADRIPURAM.
3. SRI RAMAKRISHNA FREE SCHOOL, COTTONPET.
4. DEENA SEVA FREE DISPENSARIES. MALLESWARAM & SESHADRIPURAM.
5. DEENA VIDYARTHI ASHRAM, SESHADRIPURAM.

OFFICE OF THE SECRETARY
25 MAY 1937
REPRESENTATIVE ASSEMBLY
&
LEGISLATIVE COUNCIL

Malleswaram-Bangalore

Date May 21, 1937.

The Dewan - President,
Mysore Legislative Council,
BANGALORE.

Dear Sir,

I have the honour to submit herewith a copy of the Bill to remove all Legal Obstacles to the Marriage of Hindu Widows in the Mysore State along with the statement of Objects and Reasons.

The Bill was submitted by Mr. K.T. Bushyam Iyengar and myself and the General Principles of the same were placed before the Representative Assembly during the June Sessions 1936 and were approved by the Assembly.

Under Rule 6 (a) of the Rules of Business for the Legislative Council, I seek your kind permission to introduce the Bill at the forthcoming Sessions of the Legislative Council.

I have herewith submitted a copy of the Bill as also the Statement of General Principles and Objects and Reasons.

Thanking you.

I remain,
Ever yours in Service,
D. Ramachandra
SECRETARY

Chippy. W/c
B.a
Cl. 24/5
23-5-37 Rid
L.C
MMS 25/5
WOP 25.5

President:
SJT. DEVA RAO SHIVARAM

Vice-President:
MISS RUTH E. ROBINSON

Treasurer:
SJT. V. VENKATESIAH

Secretary:
SJT. RAMACHANDRA

AIMS & OBJECTS

1 To promote the moral and material well-being of the masses & educate them and their children by conducting Settlements, Schools, Orphanages, Bhajanas, etc., and to train them for citizenship.

2 To carry on propaganda against the evils of Drink, Insanitation, Intemperance and Inhuman practices, and also Social Inequalities and vices.

3 To train and maintain a band of missionary self-sacrificing workers for the carrying on of the above objects & aims.

SECRETARIAL
OFFICE
11 NOV 1937
REPRESENTATIVE ASSEMBLY AND LEGISLATIVE COUNCIL

D 897

"I seek not Kingdom nor Paradise, nor even Salvation;
I seek only the Deliverance from Affliction of the Afflicted."

Deena Seva Sangha

Mallesawaram-Bangalore

CENTRES OF WORK:

1. SEVA ASHRAM SCHOOL & DISPENSARY, LABOUR COLONY, SRIRAMPURA.
2. LABOURERS' FELLOWSHIP SCHOOL, SESHADRIPURAM
3. SRI RAMAKRISHNA FREE SCHOOL COTTONPET.
4. DEENA SEVA FREE DISPENSARY, SESHADRIPURAM.
5. DEENA VIDYARTHI ASHRAM, SESHADRIPURAM.

Date November 9, 1937

Ldy/11-11

The Secretary,
Mysore Legislative Council,
Public Offices,
Bangalore.

Dear Sir,

I desire to submit at the forthcoming meeting of the Legislative Council the "Hindu Widow Re-marriage Bill" (which has passed the first reading at the last session of the Council).

I request you to kindly let me know the procedure I should adopt in the matter.

Thanking you for an early reply.

I remain,

Ever yours in Service,

T. Ramachandra
M.L.C.
Secretary.

President:
DEVA RAO SHIVARAM

Vice-President
&
Treasurer:
SJT. V. VENKATESIAH

Secretary:
RAMACHANDRA

AIMS & OBJECTS

1. To promote the moral and material well-being of the masses and educate them and their children by conducting Settlements, Schools, Orphanages, Bhajanas, etc., and to train them for citizenship.
2. To carry on propaganda against the evils of Drink, Insanitation, Intemperance and Inhuman practices, and also Social Inequalities and vices.
3. To train and maintain a band of missionary self-sacrificing workers for the carrying on of the above objects and aims.

Appendix F G–1]

SUBJECT

Hindu Widow Remarriage Bill

Section.

File No.

Serial No.

No. 2771/Leg.

To Shelane

J. Ramachandra Esqr Hon. P.C.

and Secretary, Deena Seva Sangha,

Mallesvaram, Bangalore.

Diary No. of letter replied to

General and Revenue Secretariat

( )

the 193 .

Date of issue 13/14-12-43

Signed by Hon. Rt. M. Nar.

Page 14 of P.C. Rules of Business

List of enclosures

Copied by

Examined by

Sir,

With reference to your letter dated 9th Nov. 1937 the piloting of regd "The Hindu Widow Remarriage Bill" at the next meeting of the P.C., I am directed to state that under Rule 7 of the P.C. Rules of Business the mover should send to the Secretary a copy of the Bill together with a full statement of objects and reasons and any connected papers to be printed and circulated amongst the members and also published in the Gazette. May I know if the Bill and the statement of objects and reasons already furnished by you and printed for circulation

amongst the members (copy enclosed)
~~private letter~~ at the last meeting
of the Council may be used for necessary
action under Rule 7:

motion in respect of its being
read in Council by you at the next meeting
of the P.C. will be included in the
agenda.

I have etc.

13.11

Secretary, P.C.

13/11/37

2771/Kb
Enclosure

13/11 November 7

A. Sundararaja Rao, Esq., B.A., B.L.,
xx

T. Ramachandra, Esq.,
Member, Legislative Council,
and Secretary, Deena Seva Sangha,
Malleswaram, B a n g a l o r e.

With reference to your letter dated 9th November 1937 regarding the piloting of "The Hindu Widow Remarriage Bill" at the next meeting of the Legislative Council, I am directed to state that under Rule 7 of the Legislative Council Rules of Business the mover should send to the Secretary a copy of the Bill together with a full statement of objects and reasons and any connected papers to be printed and circulated amongst the members and also published in the Gazette. May I know if the Bill and the statement of objects and reasons already furnished by you and printed for circulation amongst the members (Copy enclosed) at the last meeting of the Council may be used for necessary action under Rule 7.

Motion in respect of its being read in Council by you at the next meeting of the Legislative Council will be included in the agenda.

I have the honour to be,
Sir,
Your most obedient servant,

13.11

Secretary,
Mysore Legislative Council.

Fair Draft

6

D 912

"I seek not Kingdom nor Paradise, nor even Salvation;
I seek only the Deliverance from Affliction of the Afflicted."

Deena Seva Sangha

Mallesawaram-Bangalore

CENTRES OF WORK:

1. SEVA ASHRAM SCHOOL & DISPENSARY, LABOUR COLONY, SRIRAMPURA.
2. LABOURERS' FELLOWSHIP SCHOOL, SESHADRIPURAM
3. SRI RAMAKRISHNA FREE SCHOOL COTTONPET.
4. DEENA SEVA FREE DISPENSARY, SESHADRIPURAM.
5. DEENA VIDYARTHI ASHRAM, SESHADRIPURAM.

69/16.11

Date November 15, 1937

The Secretary,
Mysore Legislative Council,
B A N G A L O R E.

OFFICE OF THE SECRETARY
16 NOV. 1937
REPRESENTATIVE ASSEMBLY
AND
LEGISLATIVE COUNCIL.

President:
DEVA RAO SHIVARAM

Vice-President
&
Treasurer:
SJT. V. VENKATESIAH

Secretary:
RAMACHANDRA

AIMS & OBJECTS

1. To promote the moral and material well-being of the masses and educate them and their children by conducting Settlements, Schools, Orphanages, Bhajanas, etc., and to train them for citizenship.
2. To carry on propaganda against the evils of Drink, Insanitation, Intemperance and Inhuman practices, and also Social Inequalities and vices.
3. To train and maintain a band of missionary self-sacrificing workers for the carrying on of the above objects and aims.

Dear Sir,

I am in receipt of your letter regarding the intorduction of the Bill on "The Hindu Widow Re-marriage". I desite to state that the statement of objects and reasons already printed and circulated amongst the members at the meeting of the Council may be used for nedessary action under Rule 7.

I shall thank you for including this item at the next meeting of the Council.

I remain,

Ever yours in Service,

D. Ramachandra

(M.L.C.)

SECRETARY.

7

NOTIFICATION.

No. 2784—*L. C., Bangalore, dated* 23*rd November* 1937.

Under Rule 7 of the rules for the conduct of business of the Mysore Legislative Council, the accompanying private Bill to remove all Legal Obstacles to the Marriage of Hindu Widows in the Mysore State is published for general information with the statement of objects and reasons.

By Order,
A. SUNDARARAJA RAO,
Secretary,
Mysore Legislative Council.

Bill to Remove all Legal Obstacles to the Marriage of Hindu Widows in the Mysore State.

Whereas the removal of all legal obstacles to the marriage of Hindu Widows in the State will tend to the promotion of good morals and to the public welfare and whereas it is just to hold offsprings of such marriages as legitimate, it is hereby enacted as follows:—

Short title, extent and commencement.

1. (*i*) The Regulation may be called "The Mysore Hindu Widows Marriage Regulation, 193 ."

(*ii*) It shall extend to the whole of the territories of Mysore.

(*iii*) It shall come into operation at the expiration of six months from the date of its publication in the Official Gazette.

Marriage of Hindu Widows Legalised.

2. Notwithstanding any custom and any interpretation of Hindu Law to the contrary, no marriage contracted between Hindus shall be invalid, and no issue of such marriage shall be illegitimate, by reason of the woman having been previously married or betrothed to another person who was dead at the time of such marriage, provided that the parties must not be related to each other

in any degree of consanguinity or affinity which would under Hindu Law render a marriage illegal.

Ceremonies constituting valid marriage to have effect on Widows Re-marriage.

3. Whatever words spoken, ceremonies performed or engagements made on the marriage of a Hindu female who has not been previously married, are sufficient to constitute a valid marriage, shall have the same effect if spoken, performed or made on the marriage of a Hindu Widow; and no marriage shall be declared invalid on the ground that such words, ceremonies or engagements are inapplicable to the case of a widow.

Consent to the re-marriage of a Widow.

4. A widow who has not completed her sixteenth year and whose previous marriage has not been consummated, shall not re-marry without the consent of her guardian in marriage in the order mentioned, *viz.*, her father, her mother or her next male relatives.

The consent of the guardian shall be presumed until the contrary is proved.

No such marriage shall be declared void after it has been consummated in the case of a widow who has completed her sixteenth year, or whose previous marriage has been consummated. Her own consent shall be sufficient consent to constitute her re-marriage lawful and valid.

Saving of rights of widow marrying.

5. Except as hereinafter provided, a widow shall not, by reason of her re-marriage forfeit any property or any right to which she would otherwise be entitled; and every widow who has re-married shall have the same rights of inheritance as she would have had, had such marriage been such marriage.

Rights of widow on her marriage.

6. All rights and interests which any widow may have inherited from her deceased husband shall upon her re-marriage cease and determine as if she had then died, and the next heirs of her deceased husband, or other persons entitled to the property on her death shall thereupon succeed to the same.

Exception I.—In the absence of such a next heir or person entitled to the property at the time of her re-marriage, the property inherited from her husband shall be deemed to be her absolute property.

Exception II.—Rights and interests in any property by virtue of any gift or testamentory disposition upon her only a limited estate with no power of alienating the same shall be deemed to confer upon her an absolute estate; *i.e.*, one with power of alienating the same, unless there is an express prohibition to re-marry in the terms evidencing the gift or testamentory disposition.

Guardianship of children of deceased husband on the re-marriage of his widow.

7. On the re-marriage of a Hindu widow, if neither the widow nor any other person has been expressly constituted by the will or testamentory disposition of the deceased husband the guardian of the children, she shall be entitled during their minority to have the care and custody of her children or any of them by her deceased husband until a competent Court having original Jurisdiction in civil cases in the place where the deceased was domiciled at the time of his death shall appoint some proper person other than the mother to be guardian on a petition by the father or the paternal grandfather or the mother or the grandmother or any male relative of the deceased husband, and in making such appointment, the said court shall be guided, so far as may be, by the laws and rules in force touching the guardianship of children who have neither father nor mother:

Provided that, when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointments shall be made otherwise than with the consent of the mother unless the proposed guardian shall have given security for the support and proper education of the children during their minority:

Provided also that when the widow has been expressly constituted guardian by the will or testamentory disposition of the deceased husband no such appointment shall be made.

Statement of Objects and Reasons.

Mysore has not as yet a regulation corresponding to Act XV of 1856 which legalises the re-marriage of Hindu widows and we are therefore certainly behind British India in this respect. The British Act of 1856 was the outcome of the efforts of the late Pandit Iswar Chandar Vidyasagar making it applicable to all Hindu widows who may be so minded as to re-marry in spite of the traditional

interpretation of the Hindu Law or custom to the contrary.

The Bill is purely a permissive measure and aims at removing legal obstacles to the re-marriages of such Hindu widows as wish to re-marry and at legitimising the children born of such wedlock. It endeavours to meet the growing consciousness of the educated Hindus who believe that the re-marriage of Hindu widows is not opposed to the true interpretation of the precepts of Hindu religion but is also in consonance with the principles of Justice and Equity. It does not affect the right of a Hindu widow who is allowed to re-marry by the custom of her community.

The rules of Consanguinity and Affinity under the Hindu Law are made applicable to the case of re-marriage and the widows gothram is fixed as that of her father for purposes of her re-marriage. The customary marriage ceremonies generally observed in the case of the first marriage are made applicable to the re-marriages. In the case of a minor widow, the consent of her guardian in marriage is made obligatory except where her first marriage had been consummated.

The right of a widow in the estate of her deceased husband ceases on her marriage and she is divested of all rights inherited from him which then pass on to the next heir of her deceased husband. In the absence of such heir, the re-married widow continues to enjoy them as her absolute estate. The rights acquired by her under gift, deed or will from her deceased husband are deemed as her absolute estate unless there is a prohibition to re-marry in the deed of the gift or the will.

A re-married widow continues to be the guardian of her children by the first husband until a civil court appoints another person in her place as guardian at the instance of some interested person.

Printed by the Superintendent at the Government Press, Bangalore.

To

The Chief Secretary

to the Government of H. H. the Maharaja

of Mysore

- in Bangalore

Pro
CHIEF SECRETARY
18 DEC 1937
GOVT. OF MYSORE.

Sir,

I the undersigned beg to submit a Copy of Resolutions enclosed herewith, passed on 6-12-37 at Narasimharaja-pura Sri Umamaheswara temple regarding "Hindu Widhava Vivaha Legislature" for your kind perusal and favourable order there on

I beg to remain,

Sir,

your most obediently

Agrahara
Narasimharajapura
Dated 10-12-37

H. Mallappaiya
President of the meeting

~~ శ్రీ: ~~

సన్ 1937 నే ఇస్వీ సెంబర్ కొలీఎమ్ 6 కి

I సోమవార మొంయుంకల 6½ గంటియ్లు నరసింహరాజ
ప్రభద శ్రీమదుమామకేశ్వరదేవస్థానదల్లి ఈ దివస పురనివాసిగళు
సభేయేరి "హిందూ విధవా వివాహ" దకానూనుజా
రిగే సర్కారదవరు తరబేకెందు మాడిరువ మసూ
దెయున్న చరిత్రంగవాగిఓది ఛర్చె నిద్దరల్లి శ్రీ
మదింది యూ ఉక్త వర్తనియవర ప్రతిద్దపక్షికే
(1 కడే) యుంతే సర్కారదవరు మతకం బంధవాద
మత్తు హిందూధర్మశాస్త్రక్కే విరుద్ధవాద ఈ మసూదే
యున్న జారిగే తరువుదు సూక్ష్మవల్లవేందు ళబుద్ధి
మతదింద తిర్మానవాయ్తు.

II ఖదరితిర్మానవన్న శ్రీమన్మహారాజ సర్కార
దవరిగిమ్ళిసి పెక్కేచరియవర వరమూల్యక్కళబేకెం
తలూ, మత్తు నమ్మన్నాళ్ళువ శ్రీమన్మహారాజరవరిగి
ఈ ప్రజాభీష్టపెక్కేచరియవర వరమూల్య విజ్ఞాపిసికొళ్ళబే
కెంతలూ మఱరాశ్రీనాడిగళు బుద్ధిపూర్వకవరుసూచిసి
ద్దవరమేలే సర్వానుమతదింద అనుమోదిసిలాయ్తు.

III మేల్మండ తిర్మానగళన్నక్కళలు ఈ దివసద సభా
ధ్యక్షరిగే అధికారకొడలాయ్తు.

కో|6.12.37|
నరసింహరాజపుర|

H. Mallappaiya
వ్యవసాయం

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P 5544-50 Dated, Bangalore, 5-4-1938

Official Memorandum.

A meeting of the Select Committee appointed to consider the Hindu Widow Marriage Bill will be held in the Chambers of the First Member of Council, Public Offices Buildings, Bangalore at 3 P.M. on Thursday the 12th April 1938

By Order,

Secretary to the Committee.

To 1) B. T. Kasturiengar Esq.
2) A. V. Ramanathan Esq.
3) Miss Lakshmiammanni Esq.
4) Balur Srinivasiengar Esq.
5) K. R. Subramanyam Esq.
6) M. S. Dharmapuri Gowda Esq.
7) D. Ramachandraiya Esq. P.T.O.

Copy to P. A. to Asst Secretary
" Cabinet Room
" Sec. Office

SE

Appendix F G—1]

SUBJECT .....

.....

.....

Section Legis

File No.

Serial No.

A. O

No. D 5651-57

Diary No. of letter replied to.....

To—

Dear Sir,

General and Revenue Secretariat

( )

the 193 .

The meeting of the Select committee on the Hindu widows marriage Bill will commence at 4 P.M. on tomorrow instead of at 3 P.M. as intimated in G.O. No 5544-50 Dy 5-4-38

Date of issue 11-4-38

Signed by Mrs. A.S.R.

Yours sincerely

Dy 11.4.

Prop sd

Gr. 11/4

List of enclosures.....

1) B. T. Rajeswara Iyer Esq B.A

2) A. V. Ramanadham Esq B.A

3) Mrs. N. Lakshminarasayya Esq B.A., B.L

4) Balwant Srinivasa Rao Esq B.A., B.L

5) K. R. Subbanna Chetty Esq B.A., B.L.

6) M. S. Duraiswamy Iyer Esq.

7) S. Ramachandra Esq.

Copied by .....

Examined by.....

SUBJECT .....

.....

.....

Section

File No.

Serial No.

D. O

No. P6217-21/Genl.

Diary No. of letter replied to.....

To

Dear Sir,

I am directed to forward herewith a copy of the Draft report of the Select Committee on the Hindu Widows Re-marriage Bill and to request you to return it with your approval at your earliest convenience.

Yours sincerely,

General and Revenue Secretariat

( )

the 193 .

Date of issue 6.5.38

Signed by Mr. A.S.R.

List of enclosures.....

Copied by .....

Examined by.....

2o B. T. Ranganatha Sastry
V. A. V. Ramanadham Esq
K. R. Subramaniachar Esq
Smt. V. Lakshminarayana Esq
V. T. Ramachandra Esq

WD 0521—GPB—30,000—12-3-37

6462/837

K. R. SUBBANNACHAR, B.A., LL.B.,
ADVOCATE.

Member, The Mysore Legislative Council,
The Hassan District Board and
The Hole-Narsipur Municipal Council.

HOLE-NARSIPUR.

8.5.'38

Dear Sir,

Ref: D.O. No PB 27-21

The draft report of the Committee on the Lingayat remarriage Bill is returned duly approved

Yours sincerely

K. Subbannachar.

To

The Secretary,
Legislative Council
Bangalore

REPORT OF THE SELECT COMMITTEE ON THE HINDU WIDOWS MARRIAGE BILL.

We, the members of the Select Committee appointed to consider the Hindu Widows Marriage Bill have considered the Bill and have now the honour to submit this our report:-

Preamble:- As the main object of the measure is to remove the legal obstacles to the remarriage of such Hindu widows as wish to remarry and to hold offsprings of such marriages legitimate, we consider the words "good morals and to the" as unnecessary and we accordingly recommend that they may be omitted.

Clause 4: This clause as it is at present worded is vague and defective. There is no such thing as "guardian in marriage" recognised under Hindu law. The clause does not also effectively protect the interest of minor widows who may be enticed to marry by persons other than her near relatives who will safeguard her interests. We recommend that instead of this clause the following clause which is substantially the same as Section 7 of the British Indian Act, be substituted:-

Consent to re-marriage of minor widow.

"If the widow re-marrying is a minor whose marriage has not been consummated, she shall not re-marry without the consent of her father, or if she has no father, of her paternal grandfather, or if she has no such grandfather, of her mother,

or failing all these, of her elder brother, of failing also brothers of her next male relative.

Punishment for aoetting marriage made contrary to this Section.

"All persons knowingly aoetting a marriage made contrary to the provisions of this section shall be liable to imprisonment for any term not exceeding one year or to fine or to both.

Effect of such marriage. Proviso.

"And all marriages made contrary to the provisions of this section may be declared void by a Court of Law: Provided, that in any question regarding the validity of a marriage made contrary to the provisions of this section, such consent as is aforesaid shall be presumed until the contrary is proved, and that no such marriage shall be declared void after it has been consummated.

Consent to re-marriage of major widow.

"In the case of a widow who is of full age, or whose marriage has been consummated, her own consent shall be sufficient consent to constitute her re-marriage lawful and valid."

Clause 6. A distinction is made in this clause between property inherited by a widow from her deceased husband and property got by her by gift or testamentary disposition. In the former case her rights cease on re-marriage while in the latter she is given an absolute estate unless there is xxx an express prohibition to re-marry. We see no justification for such a distinction. On her re-marriage she must be considered to be civilly

dead and she must forfeit all her rights in the property of her husband by whatever means obtained. The widow being civilly dead in respect of her rights to the property of her deceased husband she cannot claim it even in the absence of next heirs of her deceased husband as provided for in the exception.

We recommend that the following clause which is comprehensive may be substituted for the present clause 6:-

"All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors, or by virtue of any will or testamentary disposition conferring upon her, without express permission to re-marry, only a limited interest in such property, with no power of alienating the same, shall upon her remarriage cease and determine as if she had then died; and the next heirs of her deceased husband, or other persons entitled to the property on his death, shall thereupon succeed to the same."

Clause 7: The clause also is not worded clearly. The object is to see that the interests of the children by the first marriage are safeguarded. The second proviso is also unnecessary as the question of appointment of a guardian by the Court arises only when the widow has not been expressly constituted guardian by will. We recommend that the following be substituted for this

clause:-

Guardian of children of deceased husband on the re-marriage of his widow.

"On the re-marriage of a Hindow widow, if neither the widow nor any other person has been expressly constituted by the will or testamentary disposition of the deceased husband the guardian of his children the father or paternal grandfather or the mother or paternal grandmother, of the deceased husband, or any male relative of the deceased husband, may petition the highest Court having original jurisdiction in civil cases in the place where the deceased husband was domiciled at the time of his death for the appointment of some proper person to be guardian of the said children, and thereupon it shall be lawful for the said Court, if it shall think fit, to appoint such guardian, who when appointed shall be entitled to have the care and custody of the said children, or of any of them during their minority, in the place of their mother; and in making such appointment the Court shall be guided, so far as may be by the laws and the rules in force touching the guardianship of children who have neither father nor mother.

"Provided that when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointment shall be made otherwise than with the consent of the mother unless the proposed guardian shall have given security for the support and proper education of the children while minors."

As the Bill has been amended in material particulars, we recommend that it may be republished as amended by us.

D. O. No. P6217-21
Exec. Sec.

GENERAL AND REVENUE SECRETARIAT,

Dated, Bangalore, 5th May 1938.

Dear Sir,

I am desired to forward herewith a copy of the draft report of the Select Committee on the Hindu Widow re-marriage Bill and to request you to return it with your approval at your earliest convenience.

Yours sincerely,

To

A. V. Ramanathan Esq., B.A.

Returned with Compliments,
approved & signed
8/5/38

REPORT OF THE SELECT COMMITTEE ON THE HINDU WIDOWS MARRIAGE BILL.

We, the members of the Select Committee appointed to consider the Hindu Widows Marriage Bill have considered the Bill and have now the honour to submit this our report:-

Preamble:- As the main object of the measure is to remove the legal obstacles to the remarriage of such Hindu widows as wish to remarry and to hold offsprings of such marriages legitimate, we consider the words "good morals and to the" as unnecessary and we accordingly recommend that they may be omitted.

Clause 4: This clause as it is at present worded is vague and defective. There is no such thing as "guardian in marriage" recognised under Hindu law. The clause does not also effectively protect the interest of minor widows who may be enticed to marry by persons other than her near relatives who will safeguard her interests. We recommend that instead of this clause the following clause which is substantially the same as Section 7 of the British Indian Act, be substituted:-

Consent to re-marriage of minor widow.

"If the widow re-marrying is a minor whose marriage has not been consummated, she shall not re-marry without the consent of her father, or if she has no father, of her paternal grandfather, or if she has no such grandfather, of her mother.

or failing all these, of her elder brother, or failing also brothers of her next male relative.

Punishment for abetting marriage made contrary to this Section.

"All persons knowingly abetting a marriage made contrary to the provisions of this section shall be liable to imprisonment for any term not exceeding one year or to fine or to both.

Effect of such marriage. Proviso.

"And all marriages made contrary to the provisions of this section may be declared void by a Court of Law; Provided, that in any question regarding the validity of a marriage made contrary to the provisions of this section, such consent as is aforesaid shall be presumed until the contrary is proved, and that no such marriage shall be declared void after it has been consummated.

Consent to re-marriage of major widow.

"In the case of a widow who is of full age, or whose marriage has been consummated, her own consent shall be sufficient consent to constitute her re-marriage lawful and valid."

Clause 6. A distinction is made in this clause between property inherited by a widow from her deceased husband and property got by her by gift or testamentary disposition. In the former case her rights cease on re-marriage while in the latter she is given an absolute estate unless there is an express prohibition to re-marry. We see no justification for such a distinction. On her re-marriage she must be considered to be civilly

dead and she must forfeit all her rights in the property of her husband by whatever means obtained. The widow being civilly dead in respect of her rights to the property of her deceased husband she cannot claim it even in the absence of next heirs of her deceased husband as provided for in the exception.

We recommend that the following clause which is comprehensive may be substituted for the present clause 6:-

Rights of widow in deceased husband's property to cease on her re-marriage.

"All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors, or by virtue of any will or testamentary disposition conferring upon her, without express permission to re-marry, only a limited interest in such property, with no power of alienating the same, shall upon her remarriage cease and determine as if she had then died; and the next heirs of her deceased husband, or other persons entitled to the property on her death, shall thereupon succeed to the same."

Clause 7: This clause also is not worded clearly. The object is to see that the interests of the children by the first marriage are safeguarded. The second proviso is also unnecessary as the question of appointment of a guardian by the Court arises only when the widow has not been expressly constituted guardian by will. We recommend that the following be substituted for this

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"On the re-marriage of a Hindow widow, if neither the widow nor any other person has been expressly constituted by the will or testamentary disposition of the deceased husband the guardian of his children the father or paternal grandfather or the mother or paternal grandmother, of the deceased husband, or any male relative of the deceased husband, may petition the highest Court having original jurisdiction in civil cases in the place where the deceased husband was domiciled at the time of his death for the appointment of some proper person to be guardian of the said children, and thereupon it shall be lawful for the said Court, if it shall think fit, to appoint such guardian, who when appointed shall be entitled to have the care and custody of the said children, or of any of them during their minority, in the place of their mother; and in making such appointment the Court shall be guided, so far as may be by the laws and the rules in force touching the guardianship of children who have neither father nor mother.

"Provided that when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointment shall be made otherwise than with the consent of the mother unless the proposed guardian shall have given security for the support and proper education of the children whilst minors."

As the bill has been amended in material particulars, we recommend that it may be republished as amended by us.

8/5/82

REPORT OF THE SELECT COMMITTEE ON THE HINDU WIDOWS MARRIAGE BILL.

We, the members of the Select Committee appointed to consider the Hindu Widows Marriage Bill have considered the Bill and have now the honour to submit this our report:-

Preamble:- As the main object of the measure is to remove the legal obstacles to the remarriage of such Hindu widows as wish to remarry and to hold offsprings of such marriages legitimate, we consider the words "good morals and to the" as unnecessary and we accordingly recommend that they may be omitted.

Clause 4: This clause as it is at present worded is vague and defective. There is no such thing as "guardian in marriage" recognised under Hindu law. The clause does not also effectively protect the interest of minor widows who may be enticed to marry by persons other than her near relatives who will safeguard her interests. We recommend that instead of this clause the following clause which is substantially the same as Section 7 of the British Indian Act, be substituted:-

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or failing all these, of her elder brother, of failing also brothers of her next male relative.

Punishment for abetting marriage made contrary to this Section.

"All persons knowingly abetting a marriage made contrary to the provisions of this section shall be liable to imprisonment for any term not exceeding one year or to fine or to both.

Effect of such marriage. Proviso.

"And all marriages made contrary to the provisions of this section may be declared void by a Court of Law: Provided, that in any question regarding the validity of a marriage made contrary to the provisions of this section, such consent as is aforesaid shall be presumed until the contrary is proved, and that no such marriage shall be declared void after it has been consummated.

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"In the case of a widow who is of full age, or whose marriage has been consummated, her own consent shall be sufficient consent to constitute her re-marriage lawful and valid."

Clause 6. A distinction is made in this clause between property inherited by a widow from her deceased husband and property got by her by gift or testamentary disposition. In the former case her rights cease on re-marriage while in the latter she is given an absolute estate unless there is ~~xxx~~ an express prohibition to re-marry. We see no justification for such a distinction. On her re-marriage she must be considered to be civilly

dead and she must forfeit all her rights in the property of her husband by whatever means obtained. The widow being civilly dead in respect of her rights to the property of her deceased husband she cannot claim it even in the absence of next heirs of her deceased husband as provided for in the exception.

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Clause 7: The clause also is not worded clearly. The object is to see that the interests of the children by the first marriage are safeguarded. The second proviso is also unnecessary as the question of appointment of a guardian by the Court arises only when the widow has not been expressly constituted guardian by will. We recommend that the following be substituted for this

clause:-

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"Provided that when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointment shall be made otherwise than with the consent of the mother unless the proposed guardian shall have given security for the support and proper education of the children whilst minors."

As the Bill has been amended in material particulars, we recommend that it may be republished as amended by us.

Approved

J. Ramsden

6.5.38

Mirle N. Lakshminaranappa, Esq.,
B.A.,LL.B.,
Government Advocate.

GOVERNMENT ADVOCATE'S CHAMBERS,
PUBLIC OFFICES,

D. O. No. 787
One

Bangalore,....9th May,.....193 8.

Dear Mr. Sundararaja Rao,

I should like to invite your kind attention to the following points with reference to the draft report of the Select Committee on the Hindu Widow Re-marriage Bill, received with your letter dated the 5th May 1938 and bearing No. P. 6217-21:-

(1) I believe the interval of six months' period in sub-clause (3) of clause 1 was reduced to one month on the suggestion of the learned Chairman. If that be so, the necessary amendment may kindly be made.

(2) In paragraph 3 relating to Clause 4, the subordinate clause "who may be enticed to marry by persons other than her near relatives" leads to a suggestion which was never intended, of course, that near relatives also entice a widow to marry, but when the same enticement is made by persons other than they it will be unlawful. The ambiguity I think, may be cleared by the omission of the words "other than her near relatives who will" and substituting in their stead "not expected to".

(3) The word "of" in line 1 on page 2 of the draft report is evidently a mistake in typing for "or".

(4) The word "brothers" in line 2 of the same page is to be found in the corresponding clause of the British Indian Act also. But I should think the word "such" may have to be added between the words "also" and"brothers" so that with this qualifying adjective the word "brothers" may relate to only elder brothers as mentioned earlier in the context. There does not seem to be any necessity to use the plural "brothers" because the singular includes the plural. You may remember that the corresponding British

Indian Act was passed in 1856 prior to the enactment of the General Clauses Act which was passed in British India in 1897. But now, in view of Section 13 (2) of the Mysore General Clauses Act, there may not be any need to use the plural "brothers". In this context there is also another point for consideration. Suppose there is more than one elder brother. Should all consent or only one of them? Even if it is the idea that the consent of all the brothers is necessary, "brothers" must then also necessarily mean elder brothers and therefore, the addition of the qualifying word "such" will in every event be essential and likewise the change to the singular "brother" by reason of the General Clauses Act. But the point will be whether the widow should take the consent of all her elder brothers or whether the consent of any one of them will be enough; if so, whether it should be of the eldest. In my opinion, the consent of all the elder brothers is not necessary. The consent of the elder brother alone need not also be insisted upon. It is better to circumscribe the obstacles for the remarriage as much as possible, of course, consistently with the safeguarding of the interests of immature young minds. The consent of one of the elder brothers is I think, enough. Therefore, a further amendment may be necessary by the addition of the following words:-

> "or if she has more than one elder brother, of one of them",

between the words "brother" and "or" ("of" in the draft report as mentioned already being a mistake in typing, I have used the word "or") in line 1, page 2. So my proposal with reference to this clause is as follows:-

> "or if she has more than one elder brother, of one of them or failing also such a brother .....".

(5) In the last paragraph of this proposed clause ✱ 4, the word "consent" when it ✱ appears for the second time - no doubt follows the British Indian Act. But I think the word is really superfluous. The repetition may be avoided without impairing the clearness of the meaning. After - omitting the word "consent" the clause which will run as "shall be sufficient to constitute her re-marriage lawful and valid" is in my opinion less clumsy but quite good.

(6) In line 8 of para 1 on page 4, the words "Highest Court having original jurisdiction" follows the British - Indian Act but it has become obsolete in the present day. When the Act was passed in British India, jurisdiction - under the Guardian and Wards Act was vested in the highest Court having original jurisdiction, the High Courts in - Presidency Towns and the District Courts in the moffusil. In our State also, till a few years ago, the jurisdiction was vested only in the District Court but now even the - Munsiffs have been given the power to take cognisance of cases with reference to minors within the limits of their pecuniary jurisdiction if the value of the property of the minors should not exceed such a limit. There is no reason therefore, I think, why there should be a bifurcation of jurisdiction with reference to this particular class of - minors i.e., children of the first marriage. If so, any Court which has got jurisdiction to try cases of all other classes of minors may try a case concerning these minors also. Hence I propose the deletion of the words "highest" and"original" in line 8, para 1 on page 4.

The draft report received with your letter under reply

reply is herewith returned.

yours sincerely,

Mark Mackshon
Narasappa

A. Sundararaja Rao, Esq., B.A., B.L.,
Under-Secretary to Government, Bangalore.

D. O. No. P6217-21
Exec. one

GENERAL AND REVENUE SECRETARIAT.

Dated, Bangalore, 5th May 1938.

Dear Sir,

I am desired to forward herewith a copy of the draft report of the Select Committee on the Hindu Widow re-marriage Bill and to request you to return it with your approval at your earliest convenience.

Yours sincerely,

To

B.T.Kesavaiengar Esq., B.A.

Recd 14.5 Returned with compliments.
Rd/14.5 I accept the report.

12.5.38

G. R. S. VI.—s-III/14]

1577

DRAFT.

SUBJECT.....

.....

.....

Section. Legis
File No. F-38
Serial No. 2.1

Proceedings of the Government of H. H. the Maharaja of Mysore.

Diary No. of letter replied to.....

Order No. P286/Encore

GENERAL AND REVENUE SECRETARIAT,

( )

, *the*.....*191* .

Ordered that the accompanying..... Act to remove all legal obstacles to the marriage of Hindu widows which received the assent of His Highness the Maharaja, on the..... Seventh day of..... July..... 1938, be published as ~~Regulation~~ Act No..... XII..... of 1938, in the *Mysore Gazette* for general information.

Date of issue..... 14.7.38

Signed by..... Dr. A.S.R.

May this be—

(i) Printed?

(ii) Treated as a standing order?

(iii) Published in the "Gazette" English part?

(iv) Translated?

(v) Placed at the disposal of the Press?

(vi) Published in the "Gazette" Kannada part?

W/13.7

H. E. *Secretary to Government.*

To

The Compiler, *Mysore Gazette*, for publication in Part ~~III~~ IV of the Gazette, in English and Kannada and for supply of .....spare copies in English, and .....~~spare copies~~ in Kannada as per standing orders ~~to this office, and.....spare copies in English and.....spare copies in Kannada to the Curator, Government Central Book Depot, Bangalore~~. Proofs should be sent to this office for approval before publication.

Copy to Incumbent with

As finally passed

[*~~Portions~~ omitted are enclosed in square brackets and ~~additions are~~ indicated in italics.*]

Bill to Remove all Legal Obstacles to the Marriage of Hindu Widows in the Mysore State.

(~~As~~ AMENDED BY THE ~~SELECT~~ COMMITTEE)

Whereas the removal of all legal obstacles to the marriage of Hindu Widows in the State will tend to the promotion of ~~[good morals and to the]~~ public welfare and whereas it is just to hold offsprings of such marriages as legitimate; It is hereby enacted as follows;—

Short title, extent and commencement.

1. (*i*) The Act may be called "The Mysore Hindu Widows ~~Re~~ Marriage Act, 1938."

(*ii*) It shall extend to the whole of the territories of Mysore.

(*iii*) It shall come into operation at the expiration of ~~[six]~~ *one* month~~[s]~~ from the date of its publication in the official Gazette.

Marriage of Hindu Widows legalised.

2. Notwithstanding any custom and any interpretation of Hindu Law to the contrary, no marriage contracted between Hindus shall be invalid, and no issue of such marriage shall be illegitimate, by reason of the woman having been previously married or betrothed to another person who was dead at the time of such marriage, provided that the parties must not be related to each other in any degree of consanguinity or affinity which would under Hindu Law render a marriage illegal.

Ceremonies constituting valid marriage to have effect on Widows Re-marriage.

3. Whatever words spoken, ceremonies performed or engagements made on the marriage of a Hindu female who has not been previously married are sufficient to constitute a valid marriage, shall have the same effect if spoken, performed or made on the marriage of a Hindu Widow; and no marriage shall be declared invalid on the ground that such words, ceremonies or engagements are inapplicable to the case of a widow.

[4. A widow who has not completed her sixteenth year and whose previous marriage has not been consummated, shall not re-marry without the consent of her guardian in marriage in the order mentioned, *viz.*, her father, her mother or her next male relatives.

Consent to the re-marriage of a Widow.

The consent of the guardian shall be presumed until the contrary is proved.

No such marriage shall be declared void after it has been consummated in the case of a widow who has completed her sixteenth year, or whose previous marriage has been consummated. Her own consent shall be sufficient consent to constitute her re-marriage lawful and valid.]

"4. *If the widow re-marrying is a minor whose marriage has not been consummated, she shall not re-marry without the consent of her father, or if she has no father, of her paternal grandfather, or if she has no such grandfather, of her mother, or failing all these, of her elder brother or failing also brothers of her next male relative.*

Consent to re-marriage of minor widow.

All persons knowingly abetting a marriage made contrary to the provisions of this section shall be liable to imprisonment for any term not exceeding one year or to fine or to both.

Punishment for abetting marriage made contrary to this section.

And all marriages made contrary to the provisions of this section may be declared void by a Court of law: Provided that, in any question regarding the validity of a marriage made contrary to the provisions of this section, such consent as is aforesaid shall be presumed until the contrary is proved, and that no such marriage shall be declared void after it has been consummated.

Effect of such marriage. Proviso.

In the case of a widow who is of full age, or whose marriage has been consummated, her own consent shall be sufficient consent to constitute her re-marriage lawful and valid."

Consent to re-marriage of major widow.

5. Except as hereinafter provided, a widow shall not, by reason of her re-marriage forfeit any property or any right to which she would otherwise be entitled; and every widow who has re-married shall have

Saving of rights of widow marrying.

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the same rights of inheritance as she would have had had such marriage been her first marriage.

Rights of widow on her marriage.

[6.] All rights and interests which any widow may have inherited from her deceased husband shall upon her re-marriage cease and determine as if she had then died, and the next heirs of her deceased husband, or other persons entitled to the property on her death shall thereupon succeed to the same.

Exception I.—In the absence of such a next heir or person entitled to the property at the time of her re-marriage, the property inherited from her husband shall be deemed to be her absolute property.

Exception II.—Rights and interests in any property by virtue of any gifts or testamentary disposition upon her only a limited estate with no power of alienating the same shall be deemed to confer upon her an absolute estate, *i.e.*, one with power of alienating the same, unless there is an express prohibition to re-marry in the terms evidencing the gift or testamentary disposition.

Guardianship of children of deceased husband on the re-marriage of his widow.

7. On the re-marriage of a Hindu widow, if neither the widow nor any other person has been expressly constituted by the will or testamentary disposition of the deceased husband the guardian of the children, she shall be entitled during their minority to have the care and custody of her children or any of them by her deceased husband until a competent Court having original jurisdiction in civil cases in the place where the deceased was domiciled at the time of his death shall appoint some proper person other than the mother to be guardian on a petition by the father or the paternal grandfather or the mother or the grandmother or any male relative of the deceased husband, and in making such appointment, the said court shall be guided, so far as may be, by the laws and rules in force touching the guardianship of children who have neither father nor mother :

Provided that, when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointments shall be made otherwise than with the consent of the mother unless the proposed guardian shall have given security for the support and proper education of the children during their minority :

Provided also that when the widow has been expressly constituted guardian by the will or testamentary disposition of the deceased husband no such appointment shall be made.]

"6. *All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors, or by virtue of any will or testamentary disposition conferring upon her, without express permission to re-marry; only a limited interest in such property, with no power of alienating the same, shall upon her re-marriage cease and determine as if she had then died; and the next heirs of her deceased husband, or other persons entitled to the property on her death, shall thereupon succeed to the same.*"

Rights of widow in deceased husband's property to cease on her re-marriage.

"7. *On the re-marriage of a Hindu widow, if neither the widow nor any other person has been expressly constituted by the will or testamentary disposition of the deceased husband the guardian of his children, the father or paternal grandfather or the mother or paternal grandmother, of the deceased husband, or any male relative of the deceased husband, may petition the highest Court having original jurisdiction in civil cases in the place where the deceased husband was domiciled at the time of his death for the appointment of some proper person to be guardian of the said children, and thereupon it shall be lawful for the said Court, if it shall think fit, to appoint such guardian, who when appointed shall be entitled to have the care and custody of the said children or of any of them during their minority, in the place of their mother; and in making such appointment the Court shall be guided, so far as may be by the laws and the rules in force touching the guardianship of children who have neither father nor mother:*

Guardian of children of deceased husband on the re-marriage of his widow.

Provided that, when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointment shall be made otherwise than with the consent of the mother unless the proposed guardian shall have given security for the support and proper education of the children whilst minors."

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WD 02244—G PB—2,000—3-4-17

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

Read:

Order No. P286 Lys 5 38-8 / Encl 3

Dated, Bangalore the 14th July 1938.

Ordered that the accompanying Act to remove all legal obstacles to the marriage of Hindu Widows which received the assent of His Highness the Maharaja, on the seventh day of July 1938 be published as Act No.XII of 1938 in the Mysore Gazette for general information.

for General Secretary to Government.

To

The Compiler, Mysore Gazette, for publication in Part IV of the Gazette in English and Kannada and for supply of spare copies in English and in Kannada as per Standing Orders. Proofs should be sent to this office for approval before publication.

Aga/3.

NOTIFICATION.

Order No. P. 286—*Legis.* 5-38-1, *dated Bangalore, the* 14*th July* 1938.

Ordered that the accompanying Act to remove all legal obstacles to the marriage of Hindu Widows which received the assent of His Highness the Maharaja, on the seventh day of July 1938, be published as Act No. XII of 1938, in the *Mysore Gazette*, for general information.

By Order,

C. SUBRAHMANYA AIYAR,

Offg. *Secretary to Government, General Department.*

ACT XII OF 1938.

(*Received the assent of His Highness the Maharaja on the Seventh day of July* 1938.)

An Act to remove all legal obstacles to the marriage of Hindu Widows in the Mysore State.

Whereas the removal of all legal obstacles to the marriage of Hindu Widows in the State will tend to the promotion of public welfare and whereas it is just to hold offsprings of such marriages as legitimate; it is hereby enacted as follows;—

Short title, extent and commencement.

1. (*i*) The Act may be called "The Mysore Hindu Widows Re-marriage Act 1938."

(*ii*) It shall extend to the whole of the territories of Mysore.

(*iii*) It shall come into operation at the expiration of one month from the date of its publication in the official Gazette.

Marriage of Hindu Widows legalised.

2. Notwithstanding any custom and any interpretation of Hindu Law to the contrary, no marriage contracted between Hindus shall be invalid, and no issue of such marriage shall be illegitimate, by reason of the woman having been previously married or betrothed to another

person who was dead at the time of such marriage, provided that the parties must not be related to each other in any degree of consanguinity or affinity which would under Hindu Law render a marriage illegal.

Ceremonies constituting valid marriage to have effect on Widows Re-marriage.

3. Whatever words spoken, ceremonies performed or engagements made on the marriage of a Hindu female who has not been previously married are sufficient to constitute a valid marriage, shall have the same effect if spoken, performed or made on the marriage of a Hindu widow; and no marriage shall be declared invalid on the ground that such words, ceremonies or engagements are inapplicable to the case of a widow.

Consent to re-marriage of minor widow.

4. If the widow re-marrying is a minor whose marriage has not been consummated, she shall not re-marry without the consent of her father, or if she has no father, of her paternal grandfather, or if she has no such grandfather, of her mother, or failing all these, of her elder brother or failing also brothers, of her next male relative.

Punishment for abetting marriage made contrary to this section.

All persons knowingly abetting a marriage made contrary to the provisions of this section shall be liable to imprisonment for any term not exceeding one year or to fine not exceeding five hundred rupees or to both.

Effect of such marriage proviso.

And all marriages made contrary to the provisions of this section may be declared void by a Court of law: Provided that, in any question regarding the validity of a marriage made contrary to the provisions of this section, such consent as is aforesaid shall be presumed until the contrary is proved, and that no such marriage shall be declared void after it has been consummated.

Consent to re-marriage of major widow.

In the case of a widow who is of full age, or whose marriage has been consummated, her own consent shall be sufficient consent to constitute her re-marriage lawful and valid.

Savings of rights of widow marrying.

5. Except as hereinafter provided, a widow shall not by reason of her re-marriage forfeit any property or any right to which she would otherwise be entitled; and every widow who has re-married shall have the same rights of inheritance as she would have had had such marriage been her first marriage.

Rights of widow in deceased husband's property to cease on her remarriage.

6. All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors, or by virtue of any will or testamentary disposition conferring upon her, without express permission

to re-marry, only a limited interest in such property with no power of alienating the same, shall upon her re-marriage cease and determine as if she had then died; and the next heirs of her deceased husband, or other persons entitled to the property on her death, shall thereupon succeed to the same.

Guardian of children of deceased husband on the re-marriage of his widow.

7. On the re-marriage of a Hindu widow, if neither the widow nor any other person has been expressly constituted by the will or testamentary disposition of the deceased husband the guardian of his children, the father or paternal grandfather or the mother or paternal grandmother, of the deceased husband, or any male relative of the deceased husband, may petition the highest Court having original jurisdiction in civil cases in the place where the deceased husband was domiciled at the time of his death for the appointment of some proper person to be guardian of the said children, and thereupon it shall be lawful for the said Court, if it shall think fit, to appoint such guardian, who when appointed shall be entitled to have the care and custody of the said children, or of any of them during their minority, in the place of their mother; and in making such appointment the Court shall be guided, so far as may be, by the laws and the rules in force touching the guardianship of children who have neither father nor mother:

Provided that, when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointment shall be made otherwise than with the consent of the mother unless the proposed guardian shall have given security for the support and proper education of the children whilst minors.

MIRZA M. ISMAIL,
Dewan.

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